

AMENDED IN SENATE JUNE 21, 2016

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2231

Introduced by Assembly Member Calderon

February 18, 2016

An act to amend *Sections 1566.7, 1569.335, 1596.819, and 1596.859 of, and to amend, repeal, and add Sections 1548, 1568.0822, 1569.49, 1596.8595, 1596.99, and 1597.58* ~~of~~ *of*, the Health and Safety Code, relating to care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 2231, as amended, Calderon. Care facilities: civil penalties.

Existing law establishes the State Department of Social Services and sets forth its powers and duties, including, but not limited to, the licensure and regulation of community care facilities, residential care facilities for persons with chronic life-threatening illnesses, residential care facilities for the elderly, day care centers, and family day care homes. Existing law authorizes the department to impose various civil penalties for a licensing violation under those provisions, as specified, and requires moneys collected from the imposition of those penalties to be expended for certain purposes. Existing law establishes a process for the appeal of a citation under these provisions.

This bill ~~would~~ *would, commencing July 1, 2017*, increase the amount of civil penalties to be imposed for a licensing violation under those provisions, and would impose civil penalties for a repeat violation of those provisions, as specified. The bill would delete the provisions that authorize the department to impose those civil penalties, and instead

require the imposition of those civil penalties under those provisions. The bill would also delete a requirement that moneys collected from the imposition of certain penalties be used for assisting families with the identification, transportation, and enrollment of children in another day care or family day care home upon the revocation or suspension of the license of a day care or family day care home. *The bill would require the department to make a good faith effort to work with the licensee to determine the cause of the deficiency and ways to prevent any repeat violations, and to adopt regulations setting forth the appeal procedures for deficiencies. The bill would require civil penalties to be due and payable when administrative appeals have been exhausted and to be subject to late fees, except as specified.* The bill would also delete obsolete provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1548 of the Health and Safety Code is~~
2 ~~amended to read:~~
3 ~~1548. (a) In addition to the suspension, temporary suspension,~~
4 ~~or revocation of a license issued under this chapter, the department~~
5 ~~shall levy civil penalties as follows:~~
6 ~~(b) (1) The amount of the civil penalty shall be one hundred~~
7 ~~dollars (\$100) per day for each violation of this chapter if an agency~~
8 ~~or facility fails to correct a deficiency after being provided a~~
9 ~~specified length of time to correct that deficiency.~~
10 ~~(A) If a licensee or a licensee's representative submits evidence~~
11 ~~to the department that the licensee has corrected a deficiency, and~~
12 ~~the department, after reviewing that evidence, has determined that~~
13 ~~the deficiency has been corrected, the civil penalty shall cease as~~
14 ~~of the day the department received that evidence.~~
15 ~~(B) If the department deems it necessary, the department shall~~
16 ~~inspect the facility within five working days after the department~~
17 ~~receives evidence pursuant to subparagraph (A) to confirm that~~
18 ~~the deficiency has been corrected.~~
19 ~~(C) If the department determines that the deficiency has not~~
20 ~~been corrected, the civil penalties shall continue to accrue from~~
21 ~~the date of the original citation.~~

1 ~~(D) If the department is able to verify that the deficiency was~~
2 ~~corrected prior to the date on which the department received the~~
3 ~~evidence pursuant to subparagraph (A), the civil penalty shall cease~~
4 ~~as of that earlier date.~~

5 ~~(2) (A) If the department issues a notification of deficiency to~~
6 ~~an agency or facility for a repeat violation of a violation specified~~
7 ~~in paragraph (1), the department shall assess an immediate civil~~
8 ~~penalty of two hundred fifty dollars (\$250) per repeat violation~~
9 ~~and one hundred dollars (\$100) for each day the repeat violation~~
10 ~~continues after citation.~~

11 ~~(B) For purposes of this section, “repeat violation” means the~~
12 ~~violation within 12 months of a prior violation of a statutory or~~
13 ~~regulatory provision designated by the same combination of letters~~
14 ~~or numerals, or both letters and numerals.~~

15 ~~(3) If the nature or seriousness of the violation or the frequency~~
16 ~~of the violation warrants a higher penalty or an immediate civil~~
17 ~~penalty assessment, or both, as provided in this chapter, a~~
18 ~~correction of the deficiency shall not impact the imposition of a~~
19 ~~civil penalty.~~

20 ~~(c) The department shall assess an immediate civil penalty of~~
21 ~~five hundred dollars (\$500) per violation and one hundred dollars~~
22 ~~(\$100) for each day the violation continues after citation for any~~
23 ~~of the following serious violations:~~

24 ~~(1) Any violation that the department determines resulted in the~~
25 ~~injury or illness of a person in care.~~

26 ~~(2) (A) Fire clearance violations, including, but not limited to,~~
27 ~~overcapacity, ambulatory status, inoperable smoke alarms, and~~
28 ~~inoperable fire alarm systems. The civil penalty shall not be~~
29 ~~assessed if the licensee has done either of the following:~~

30 ~~(i) Requested the appropriate fire clearance based on ambulatory,~~
31 ~~nonambulatory, or bedridden status, and the decision is pending.~~

32 ~~(ii) Initiated eviction proceedings.~~

33 ~~(B) A licensee denied a clearance for bedridden residents may~~
34 ~~appeal to the fire authority, and, if that appeal is denied, may~~
35 ~~subsequently appeal to the Office of the State Fire Marshal, and~~
36 ~~shall not be assessed an immediate civil penalty until the final~~
37 ~~appeal is decided, or after 60 days has passed from the date of the~~
38 ~~citation, whichever is earlier.~~

39 ~~(3) Absence of supervision, as required by statute or regulation.~~

~~(4) Accessible bodies of water when prohibited in this chapter or regulations adopted pursuant to this chapter.~~

~~(5) Accessible firearms, ammunition, or both.~~

~~(6) Refused entry to a facility or any part of a facility in violation of Section 1533, 1534, or 1538.~~

~~(7) The presence of a person subject to a department Order of Exclusion on the premises.~~

~~(d) If the department cites an agency or facility for a repeat violation specified in subdivision (c), the department shall assess an immediate civil penalty of one thousand dollars (\$1,000) per repeat violation and one hundred dollars (\$100) for each day the repeat violation continues after citation.~~

~~(e) (1) For a violation that the department determines resulted in the death of a resident at an adult residential facility, social rehabilitation facility, enhanced behavioral supports home licensed as an adult residential facility, adult residential facility for persons with special health care needs, or community crisis home, the civil penalty shall be fifteen thousand dollars (\$15,000).~~

~~(2) For a violation that the department determines resulted in the death of a person receiving care at an adult day program, the civil penalty shall be assessed as follows:~~

~~(A) Seven thousand five hundred dollars (\$7,500) for a facility licensed to care for 50 or fewer persons.~~

~~(B) Ten thousand dollars (\$10,000) for a facility licensed to care for 51 or more persons.~~

~~(3) For a violation that the department determines resulted in the death of a person receiving care at a therapeutic day services facility, community treatment facility, transitional shelter care facility, transitional housing placement provider, small family home, crisis nursery, group home, enhanced behavioral supports home licensed as a group home, or short-term residential treatment center, the civil penalty shall be assessed as follows:~~

~~(A) Seven thousand five hundred dollars (\$7,500) for a facility licensed to care for 40 or fewer children.~~

~~(B) Ten thousand dollars (\$10,000) for a facility licensed to care for 41 to 100, inclusive, children.~~

~~(C) Fifteen thousand dollars (\$15,000) for a facility licensed to care for more than 100 children.~~

~~(4) For a violation that the department determines resulted in the death of a youth receiving care at a runaway and homeless~~

1 youth shelter licensed as a group home, the civil penalty shall be
2 five thousand dollars (\$5,000):

3 ~~(5) For a violation that the department determines resulted in~~
4 ~~the death of a child receiving care through a foster family agency,~~
5 ~~the civil penalty shall be seven thousand five hundred dollars~~
6 ~~(\$7,500):~~

7 ~~(6) For a violation that the department determines resulted in~~
8 ~~the death of an individual receiving care or services through a~~
9 ~~full-service or noncustodial adoption agency, the civil penalty shall~~
10 ~~be seven thousand five hundred dollars (\$7,500):~~

11 ~~(f) (1) (A) For a violation that the department determines~~
12 ~~constitutes physical abuse, as defined in Section 15610.63 of the~~
13 ~~Welfare and Institutions Code, or resulted in serious bodily injury,~~
14 ~~as defined in Section 243 of the Penal Code, to a resident at an~~
15 ~~adult residential facility, social rehabilitation facility, enhanced~~
16 ~~behavioral supports home licensed as an adult residential facility,~~
17 ~~adult residential facility for persons with special health care needs,~~
18 ~~or community crisis home, the civil penalty shall be ten thousand~~
19 ~~dollars (\$10,000):~~

20 ~~(B) For a violation that the department determines constitutes~~
21 ~~physical abuse, as defined in Section 15610.63 of the Welfare and~~
22 ~~Institutions Code, or resulted in serious bodily injury, as defined~~
23 ~~in Section 243 of the Penal Code, to a person receiving care at an~~
24 ~~adult day program, the civil penalty shall be assessed as follows:~~

25 ~~(i) Two thousand five hundred dollars (\$2,500) for a facility~~
26 ~~licensed to care for 50 or fewer persons:~~

27 ~~(ii) Five thousand dollars (\$5,000) for a facility licensed to care~~
28 ~~for 51 or more persons:~~

29 ~~(C) For a violation that the department determines constitutes~~
30 ~~physical abuse, as defined in paragraph (2), or resulted in serious~~
31 ~~bodily injury, as defined in Section 243 of the Penal Code, to a~~
32 ~~person receiving care at a therapeutic day services facility,~~
33 ~~community treatment facility, transitional shelter care facility,~~
34 ~~transitional housing placement provider, small family home, crisis~~
35 ~~nursery, group home, enhanced behavioral supports home licensed~~
36 ~~as a group home, or short-term residential treatment center, the~~
37 ~~civil penalty shall be assessed as follows:~~

38 ~~(i) Two thousand five hundred dollars (\$2,500) for a facility~~
39 ~~licensed to care for 40 or fewer children:~~

1 (ii) ~~Five thousand dollars (\$5,000) for a facility licensed to care~~
2 ~~for 41 to 100, inclusive, children.~~

3 (iii) ~~Ten thousand dollars (\$10,000) for a facility licensed to~~
4 ~~care for more than 100 children.~~

5 (D) ~~For a violation that the department determines constitutes~~
6 ~~physical abuse, as defined in paragraph (2), or resulted in serious~~
7 ~~bodily injury, as defined in Section 243 of the Penal Code, to a~~
8 ~~youth receiving care at a runaway and homeless youth shelter~~
9 ~~licensed as a group home, the civil penalty shall be one thousand~~
10 ~~dollars (\$1,000).~~

11 (E) ~~For a violation that the department determines constitutes~~
12 ~~physical abuse, as defined in paragraph (2), or resulted in serious~~
13 ~~bodily injury, as defined in Section 243 of the Penal Code, to a~~
14 ~~child receiving care through a foster family agency, the civil~~
15 ~~penalty shall be two thousand five hundred dollars (\$2,500).~~

16 (F) ~~For a violation that the department determines constitutes~~
17 ~~physical abuse, as defined in paragraph (2), or resulted in serious~~
18 ~~bodily injury, as defined in Section 243 of the Penal Code, to an~~
19 ~~individual receiving care or services through a full-service or~~
20 ~~noncustodial adoption agency, the civil penalty shall be two~~
21 ~~thousand five hundred dollars (\$2,500).~~

22 (2) ~~For purposes of subparagraphs (C), (D), (E), and (F) of~~
23 ~~paragraph (1), “physical abuse” includes physical injury inflicted~~
24 ~~upon a child by another person by other than accidental means,~~
25 ~~sexual abuse as defined in Section 11165.1 of the Penal Code,~~
26 ~~neglect as defined in Section 11165.2 of the Penal Code, or~~
27 ~~unlawful corporal punishment or injury as defined in Section~~
28 ~~11165.4 of the Penal Code when the person responsible for the~~
29 ~~child’s welfare is a licensee, administrator, or employee of any~~
30 ~~facility licensed to care for children.~~

31 (g) ~~(1) Before the assessment of a civil penalty pursuant to~~
32 ~~subdivision (e) or (f), the decision shall be approved by the program~~
33 ~~administrator of the Community Care Licensing Division.~~

34 (2) (A) ~~The department shall reduce the amount of a civil~~
35 ~~penalty due pursuant to subdivision (e) or (f) by the amount of the~~
36 ~~civil penalty already assessed for the underlying violation.~~

37 (B) ~~If the amount of the civil penalty that the department has~~
38 ~~already assessed for the underlying violation exceeds the amount~~
39 ~~of the penalty pursuant to subdivision (e) or (f), the larger amount~~

1 shall prevail and be due and payable as already assessed by the
2 department.

3 (h) (1) A notification of a deficiency written by a representative
4 of the department shall include a factual description of the nature
5 of the deficiency fully stating the manner in which the licensee
6 failed to comply with the specified statute or regulation, and, if
7 applicable, the particular place or area of the facility in which the
8 deficiency occurred. The department shall make a good faith effort
9 to work with the licensee to determine the cause of the deficiency
10 and ways to prevent any repeat violations.

11 (2) The department shall adopt regulations setting forth the
12 appeal procedures for deficiencies.

13 (i) (1) A licensee shall have the right to submit to the
14 department a written request for a formal review of a civil penalty
15 assessed pursuant to subdivisions (e) or (f) within 15 business days
16 of receipt of the notice of a civil penalty assessment and shall
17 provide all available supporting documentation at that time. The
18 review shall be conducted by the deputy director of the Community
19 Care Licensing Division. The licensee may submit additional
20 supporting documentation that was unavailable at the time of
21 submitting the request for review within the first 30 business days
22 after submitting the request for review. If the department requires
23 additional information from the licensee, that information shall be
24 requested within the first 30 business days after receiving the
25 request for review. The licensee shall provide this additional
26 information within 30 business days of receiving the request from
27 the department. If the deputy director determines that the civil
28 penalty was not assessed, or the finding of deficiency was not
29 made, in accordance with applicable statutes or regulations of the
30 department, he or she may amend or dismiss the civil penalty or
31 finding of deficiency. The licensee shall be notified in writing of
32 the deputy director's decision within 60 business days of the date
33 when all necessary information has been provided to the
34 department by the licensee.

35 (2) (A) Upon exhausting the review described in paragraph (1),
36 a licensee may further appeal that decision to an administrative
37 law judge. Proceedings shall be conducted in accordance with
38 Chapter 5 (commencing with Section 11500) of Part 1 of Division
39 3 of Title 2 of the Government Code, and the department shall
40 have all the powers granted by those provisions. In all proceedings

1 conducted in accordance with this section, the standard of proof
2 shall be by a preponderance of the evidence.

3 (B) Notwithstanding any other law, if a licensee prevails in an
4 appeal pursuant to subparagraph (A), the department shall refund
5 to the licensee the amount of any civil penalty that the licensee
6 had paid in connection with the citation within 10 business days
7 of a final determination by the administrative law judge.

8 (3) If, in addition to an assessment of civil penalties, the
9 department elects to file an administrative action to suspend or
10 revoke the facility license that includes violations relating to the
11 assessment of the civil penalties, the department review of the
12 pending appeal shall cease and the assessment of the civil penalties
13 shall be heard as part of the administrative action process.

14 (j) (1) A licensee shall have the right to submit to the
15 department a written request for a formal review of any other civil
16 penalty or deficiency not described in subdivision (i) within 15
17 business days of receipt of the notice of a civil penalty assessment
18 or a finding of a deficiency, and shall provide all available
19 supporting documentation at that time. The review shall be
20 conducted by a regional manager of the Community Care Licensing
21 Division. The licensee may submit additional supporting
22 documentation that was unavailable at the time of submitting the
23 request for review within the first 30 business days after submitting
24 the request for review. If the department requires additional
25 information from the licensee, that information shall be requested
26 within the first 30 business days after receiving the request for
27 review. The licensee shall provide this additional information
28 within 30 business days of receiving the request from the
29 department. If the regional manager determines that the civil
30 penalty was not assessed, or the finding of the deficiency was not
31 made, in accordance with applicable statutes or regulations of the
32 department, he or she may amend or dismiss the civil penalty or
33 finding of deficiency. The licensee shall be notified in writing of
34 the regional manager's decision within 60 business days of the
35 date when all necessary information has been provided to the
36 department by the licensee.

37 (2) (A) Upon exhausting the review described in paragraph (1),
38 the licensee may further appeal that decision to the program
39 administrator of the Community Care Licensing Division within
40 15 business days of receipt of notice of the regional manager's

1 decision. The licensee may submit additional supporting
2 documentation that was unavailable at the time of appeal to the
3 program administrator within the first 30 business days after
4 requesting that appeal. If the department requires additional
5 information from the licensee, that information shall be requested
6 within the first 30 business days after receiving the request for the
7 appeal. The licensee shall provide this additional information
8 within 30 business days of receiving the request from the
9 department. If the program administrator determines that the civil
10 penalty was not assessed, or the finding of the deficiency was not
11 made, in accordance with applicable statutes or regulations of the
12 department, he or she may amend or dismiss the civil penalty or
13 finding of deficiency. The licensee shall be notified in writing of
14 the program administrator's decision within 60 business days of
15 the date when all necessary information has been provided to the
16 department by the licensee. The program administrator's decision
17 is considered final and concludes the licensee's administrative
18 appeal rights regarding the appeal conducted pursuant to this
19 paragraph.

20 (B) Notwithstanding any other law, if a licensee prevails in an
21 appeal pursuant to subparagraph (A), the department shall refund
22 to the licensee the amount of any civil penalty that the licensee
23 had paid in connection with the citation within 10 business days
24 of a final determination by the administrator of the Community
25 Care Licensing Division.

26 (k) The department shall adopt regulations implementing this
27 section.

28 (l) The department shall, by January 1, 2016, amend its
29 regulations to reflect the changes to this section made by Section
30 2 of Chapter 813 of the Statutes of 2014.

31 (m) As provided in Section 11466.31 of the Welfare and
32 Institutions Code, the department may offset civil penalties owed
33 by a group home or short-term residential treatment center against
34 moneys to be paid by a county for the care of minors after the
35 group home or short-term residential treatment center has exhausted
36 its appeal of the civil penalty assessment. The department shall
37 provide the group home or short-term residential treatment center
38 a reasonable opportunity to pay the civil penalty before instituting
39 the offset provision.

~~(n) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.~~

SECTION 1. Section 1548 of the Health and Safety Code is amended to read:

1548. (a) In addition to the suspension, temporary suspension, or revocation of a license issued under this chapter, the department may levy a civil penalty.

(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. Except as otherwise provided in this chapter, a civil penalty assessment shall not exceed one hundred fifty dollars (\$150) per day per violation.

(c) Notwithstanding Section 1534, the department shall assess an immediate civil penalty of one hundred fifty dollars (\$150) per day per violation for any of the following serious violations:

(1) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:

(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

(2) Absence of supervision, as required by statute or regulation.

(3) Accessible bodies of water when prohibited in this chapter or regulations adopted pursuant to this chapter.

(4) Accessible firearms, ammunition, or both.

1 (5) Refused entry to a facility or any part of a facility in violation
2 of Section 1533, 1534, or 1538.

3 (6) The presence of an excluded person on the premises.

4 (d) (1) For a violation that the department determines resulted
5 in the death of a resident at an adult residential facility, social
6 rehabilitation facility, enhanced behavioral supports ~~home~~, *home*
7 *licensed as an adult residential facility, adult residential facility*
8 *for persons with special health care needs*, or community crisis
9 home, the civil penalty shall be fifteen thousand dollars (\$15,000).

10 (2) For a violation that the department determines resulted in
11 the death of a person receiving care at an adult day program, the
12 civil penalty shall be assessed as follows:

13 (A) Seven thousand five hundred dollars (\$7,500) for a ~~licensee~~
14 ~~licensed, among all of the licensee's facilities, facility licensed to~~
15 ~~care for 50 or less~~ *fewer* persons.

16 (B) Ten thousand dollars (\$10,000) for a ~~licensee licensed,~~
17 ~~among all of the licensee's facilities, facility licensed to care for~~
18 ~~more than 50~~ *51 or more* persons.

19 (3) For a violation that the department determines resulted in
20 the death of a person receiving care at a therapeutic day services
21 facility, ~~foster family agency~~, community treatment facility,
22 ~~full-service adoption agency, noncustodial adoption agency,~~
23 ~~transitional shelter care facility, transitional housing placement~~
24 ~~provider, group home, small family home, crisis nursery, group~~
25 ~~home, enhanced behavioral supports home licensed as a group~~
26 ~~home~~, or short-term residential treatment center, the civil penalty
27 shall be assessed as follows:

28 (A) Seven thousand five hundred dollars (\$7,500) for a ~~licensee~~
29 ~~licensed, among all of the licensee's facilities, facility licensed to~~
30 ~~care for 40 or less~~ *fewer* children.

31 (B) Ten thousand dollars (\$10,000) for a ~~licensee licensed,~~
32 ~~among all of the licensee's facilities, facility licensed to care for~~
33 ~~41 to 100, inclusive, children.~~

34 (C) Fifteen thousand dollars (\$15,000) for a ~~licensee licensed,~~
35 ~~among all of the licensee's facilities, facility licensed to care for~~
36 ~~more than 100 children.~~

37 (4) For a violation that the department determines resulted in
38 the death of a ~~resident~~ *youth receiving care* at a runaway and
39 homeless youth ~~shelter~~, *shelter licensed as a group home*, the civil
40 penalty shall be five thousand dollars (\$5,000).

1 (5) For a violation that the department determines resulted in
2 the death of a child receiving care through a foster family agency,
3 the civil penalty shall be seven thousand five hundred dollars
4 (\$7,500).

5 (6) For a violation that the department determines resulted in
6 the death of an individual receiving care or services through a
7 full-service or noncustodial adoption agency, the civil penalty
8 shall be seven thousand five hundred dollars (\$7,500).

9 (e) (1) (A) For a violation that the department determines
10 constitutes physical abuse, as defined in Section 15610.63 of the
11 Welfare and Institutions Code, or resulted in serious bodily injury,
12 as defined in Section 243 of the Penal Code, to a resident at an
13 adult residential facility, social rehabilitation facility, enhanced
14 behavioral supports ~~home~~, *home licensed as an adult residential*
15 *facility, adult residential facility for persons with special health*
16 *care needs*, or community crisis home, the civil penalty shall be
17 ten thousand dollars (\$10,000).

18 (B) For a violation that the department determines constitutes
19 physical abuse, as defined in Section 15610.63 of the Welfare and
20 Institutions Code, or resulted in serious bodily injury, as defined
21 in Section 243 of the Penal Code, to a person receiving care at an
22 adult day program, the civil penalty shall be assessed as follows:

23 (i) Two thousand five hundred dollars (\$2,500) for a licensee
24 ~~licensed, among all of the licensee's facilities, facility licensed to~~
25 ~~care for 50 or less~~ *fewer* persons.

26 (ii) Five thousand dollars (\$5,000) for a licensee ~~licensed, among~~
27 ~~all of the licensee's facilities, facility licensed to care for more~~
28 ~~than 50~~ *51 or more* persons.

29 (C) For a violation that the department determines constitutes
30 physical abuse, as defined in paragraph (2), or resulted in serious
31 bodily injury, as defined in Section 243 of the Penal Code, to a
32 person receiving care at a therapeutic day services facility, ~~foster~~
33 ~~family agency, community treatment facility, full-service adoption~~
34 ~~agency, noncustodial adoption agency, transitional shelter care~~
35 ~~facility, transitional housing placement provider, group home,~~
36 ~~small family home, crisis nursery, group home, enhanced~~
37 ~~behavioral supports home licensed as a group home,~~ or short-term
38 residential treatment center, the civil penalty shall be assessed as
39 follows:

1 (i) Two thousand five hundred dollars (\$2,500) for a licensee
2 ~~licensed, among all of the licensee's facilities,~~ *facility licensed to*
3 ~~care for 40 or less~~ *fewer* children.

4 (ii) Five thousand dollars (\$5,000) for a licensee ~~licensed, among~~
5 ~~all of the licensee's facilities,~~ *facility licensed to* care for 41 to
6 100, inclusive, children.

7 (iii) Ten thousand dollars (\$10,000) for a ~~licensee licensed,~~
8 ~~among all of the licensee's facilities,~~ *facility licensed to* care for
9 more than 100 children.

10 (D) For a violation that the department determines constitutes
11 physical abuse, as defined in paragraph (2), or resulted in serious
12 bodily injury, as defined in Section 243 of the Penal Code, to a
13 ~~resident youth receiving care~~ at a runaway and homeless youth
14 ~~shelter,~~ *shelter licensed as a group home,* the civil penalty shall
15 be one thousand dollars (\$1,000).

16 (E) *For a violation that the department determines constitutes*
17 *physical abuse, as defined in paragraph (2), or resulted in serious*
18 *bodily injury, as defined in Section 243 of the Penal Code, to a*
19 *child receiving care through a foster family agency, the civil*
20 *penalty shall be two thousand five hundred dollars (\$2,500).*

21 (F) *For a violation that the department determines constitutes*
22 *physical abuse, as defined in paragraph (2), or resulted in serious*
23 *bodily injury, as defined in Section 243 of the Penal Code, to an*
24 *individual receiving care or services through a full-service or*
25 *noncustodial adoption agency, the civil penalty shall be two*
26 *thousand five hundred dollars (\$2,500).*

27 (2) For purposes of subparagraphs ~~(C) and (D)~~, (C), (D), (E),
28 *and (F) of paragraph (1)*, “physical abuse” includes physical injury
29 inflicted upon a child by another person by other than accidental
30 means, sexual abuse as defined in Section 11165.1 of the Penal
31 Code, neglect as defined in Section 11165.2 of the Penal Code, or
32 unlawful corporal punishment or injury as defined in Section
33 11165.4 of the Penal Code when the person responsible for the
34 child’s welfare is a licensee, administrator, or employee of any
35 facility licensed to care for children.

36 (f) Prior to the issuance of a citation imposing a civil penalty
37 pursuant to subdivision (d) or (e), the decision shall be approved
38 by the program administrator of the Community Care Licensing
39 Division.

(g) Notwithstanding Section 1534, any facility that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars (\$150) and fifty dollars (\$50) for each day the violation continues until the deficiency is corrected.

(h) Any facility that is assessed a civil penalty pursuant to subdivision (g) that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) is subject to an immediate civil penalty of one hundred fifty dollars (\$150) for each day the violation continues until the deficiency is corrected.

(i) (1) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(2) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred.

(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

1 (2) Upon exhausting the review described in paragraph (1), a
2 licensee may further appeal that decision to an administrative law
3 judge. Proceedings shall be conducted in accordance with Chapter
4 5 (commencing with Section 11500) of Part 1 of Division 3 of
5 Title 2 of the Government Code, and the department shall have all
6 the powers granted by those provisions. In all proceedings
7 conducted in accordance with this section, the standard of proof
8 shall be by a preponderance of the evidence.

9 (3) If, in addition to an assessment of civil penalties, the
10 department elects to file an administrative action to suspend or
11 revoke the facility license that includes violations relating to the
12 assessment of the civil penalties, the department review of the
13 pending appeal shall cease and the assessment of the civil penalties
14 shall be heard as part of the administrative action process.

15 (k) (1) A licensee shall have the right to submit to the
16 department a written request for a formal review of any other civil
17 penalty or deficiency not described in subdivision (j) within 15
18 business days of receipt of the notice of a civil penalty assessment
19 or a finding of a deficiency, and shall provide all available
20 supporting documentation at that time. The review shall be
21 conducted by a regional manager of the Community Care Licensing
22 Division. The licensee may submit additional supporting
23 documentation that was unavailable at the time of submitting the
24 request for review within the first 30 business days after submitting
25 the request for review. If the department requires additional
26 information from the licensee, that information shall be requested
27 within the first 30 business days after receiving the request for
28 review. The licensee shall provide this additional information
29 within 30 business days of receiving the request from the
30 department. If the regional manager determines that the civil
31 penalty was not assessed, or the finding of the deficiency was not
32 made, in accordance with applicable statutes or regulations of the
33 department, he or she may amend or dismiss the civil penalty or
34 finding of deficiency. The licensee shall be notified in writing of
35 the regional manager's decision within 60 business days of the
36 date when all necessary information has been provided to the
37 department by the licensee.

38 (2) Upon exhausting the review described in paragraph (1), the
39 licensee may further appeal that decision to the program
40 administrator of the Community Care Licensing Division within

1 15 business days of receipt of notice of the regional manager's
2 decision. The licensee may submit additional supporting
3 documentation that was unavailable at the time of appeal to the
4 program administrator within the first 30 business days after
5 requesting that appeal. If the department requires additional
6 information from the licensee, that information shall be requested
7 within the first 30 business days after receiving the request for the
8 appeal. The licensee shall provide this additional information
9 within 30 business days of receiving the request from the
10 department. If the program administrator determines that the civil
11 penalty was not assessed, or the finding of the deficiency was not
12 made, in accordance with applicable statutes or regulations of the
13 department, he or she may amend or dismiss the civil penalty or
14 finding of deficiency. The licensee shall be notified in writing of
15 the program administrator's decision within 60 business days of
16 the date when all necessary information has been provided to the
17 department by the licensee. The program administrator's decision
18 is considered final and concludes the licensee's administrative
19 appeal rights regarding the appeal conducted pursuant to this
20 paragraph.

21 (l) The department shall adopt regulations implementing this
22 section.

23 (m) The department shall, by January 1, 2016, amend its
24 regulations to reflect the changes to this section made by Section
25 2 of Chapter 813 of the Statutes of 2014.

26 (n) As provided in Section 11466.31 of the Welfare and
27 Institutions Code, the department may offset civil penalties owed
28 by a group home or short-term residential treatment center against
29 moneys to be paid by a county for the care of minors after the
30 group home or short-term residential treatment center has exhausted
31 its appeal of the civil penalty assessment. The department shall
32 provide the group home or short-term residential treatment center
33 a reasonable opportunity to pay the civil penalty before instituting
34 the offset provision.

35 (o) Notwithstanding the Administrative Procedure Act (Chapter
36 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
37 Title 2 of the Government Code), the department may implement
38 and administer the changes made by the act that added this
39 subdivision through all-county letters or similar written instructions

1 until regulations are adopted pursuant to the Administrative
2 Procedure Act.

3 ~~(p) This section shall become operative on July 1, 2015.~~

4 (p) *This section shall become inoperative on July 1, 2017, and,*
5 *as of January 1, 2018, is repealed, unless a later enacted statute,*
6 *that becomes operative on or before January 1, 2018, deletes or*
7 *extends the dates on which it becomes inoperative and is repealed.*

8 SEC. 2. Section 1548 is added to the Health and Safety Code,
9 to read:

10 1548. (a) *In addition to the suspension, temporary suspension,*
11 *or revocation of a license issued under this chapter, the department*
12 *shall levy civil penalties as follows:*

13 (b) (1) *The amount of the civil penalty shall be one hundred*
14 *dollars (\$100) per day for each violation of this chapter if an*
15 *agency or facility fails to correct a deficiency after being provided*
16 *a specified length of time to correct that deficiency.*

17 (A) *If a licensee or a licensee's representative submits evidence*
18 *to the department that the licensee has corrected a deficiency, and*
19 *the department, after reviewing that evidence, has determined that*
20 *the deficiency has been corrected, the civil penalty shall cease as*
21 *of the day the department received that evidence.*

22 (B) *If the department deems it necessary, the department shall*
23 *inspect the facility within five working days after the department*
24 *receives evidence pursuant to subparagraph (A) to confirm that*
25 *the deficiency has been corrected.*

26 (C) *If the department determines that the deficiency has not*
27 *been corrected, the civil penalty shall continue to accrue from the*
28 *date of the original citation.*

29 (D) *If the department is able to verify that the deficiency was*
30 *corrected prior to the date on which the department received the*
31 *evidence pursuant to subparagraph (A), the civil penalty shall*
32 *cease as of that earlier date.*

33 (2) (A) *If the department issues a notification of deficiency to*
34 *an agency or facility for a repeat violation of a violation specified*
35 *in paragraph (1), the department shall assess an immediate civil*
36 *penalty of two hundred fifty dollars (\$250) per repeat violation*
37 *and one hundred dollars (\$100) for each day the repeat violation*
38 *continues after citation. The notification of deficiency shall state*
39 *the manner in which the deficiency constitutes a repeat violation*
40 *and shall be submitted to a supervisor for review and approval.*

1 (B) For purposes of this section, “repeat violation” means a
2 violation within 12 months of a prior violation of a statutory or
3 regulatory provision designated by the same combination of letters
4 or numerals, or both letters and numerals.

5 (3) If the nature or seriousness of the violation or the frequency
6 of the violation warrants a higher penalty or an immediate civil
7 penalty assessment, or both, as provided in this chapter, a
8 correction of the deficiency shall not impact the imposition of a
9 civil penalty.

10 (c) The department shall assess an immediate civil penalty of
11 five hundred dollars (\$500) per violation and one hundred dollars
12 (\$100) for each day the violation continues after citation for any
13 of the following serious violations:

14 (1) Any violation that the department determines resulted in the
15 injury or illness of a person in care.

16 (2) (A) Fire clearance violations, including, but not limited to,
17 overcapacity, ambulatory status, inoperable smoke alarms, and
18 inoperable fire alarm systems. The civil penalty shall not be
19 assessed if the licensee has done either of the following:

20 (i) Requested the appropriate fire clearance based on
21 ambulatory, nonambulatory, or bedridden status, and the decision
22 is pending.

23 (ii) Initiated eviction proceedings.

24 (B) A licensee denied a clearance for bedridden residents may
25 appeal to the fire authority, and, if that appeal is denied, may
26 subsequently appeal to the Office of the State Fire Marshal, and
27 shall not be assessed an immediate civil penalty until the final
28 appeal is decided, or after 60 days has passed from the date of the
29 citation, whichever is earlier.

30 (3) Absence of supervision, as required by statute or regulation.

31 (4) Accessible bodies of water, when prohibited in this chapter
32 or regulations adopted pursuant to this chapter.

33 (5) Accessible firearms, ammunition, or both.

34 (6) Refused entry to a facility or any part of a facility in violation
35 of Section 1533, 1534, or 1538.

36 (7) The presence of a person subject to a department Order of
37 Exclusion on the premises.

38 (d) If the department issues a notification of deficiency to an
39 agency or facility for a repeat violation specified in subdivision
40 (c), the department shall assess an immediate civil penalty of one

1 thousand dollars (\$1,000) per repeat violation and one hundred
2 dollars (\$100) for each day the repeat violation continues after
3 citation. The notification of deficiency shall state the manner in
4 which the deficiency constitutes a repeat violation and shall be
5 submitted to a supervisor for review and approval.

6 (e) (1) For a violation that the department determines resulted
7 in the death of a resident at an adult residential facility, social
8 rehabilitation facility, enhanced behavioral supports home licensed
9 as an adult residential facility, adult residential facility for persons
10 with special health care needs, or community crisis home, the civil
11 penalty shall be fifteen thousand dollars (\$15,000).

12 (2) For a violation that the department determines resulted in
13 the death of a person receiving care at an adult day program, the
14 civil penalty shall be assessed as follows:

15 (A) Seven thousand five hundred dollars (\$7,500) for a facility
16 licensed to care for 50 or fewer persons.

17 (B) Ten thousand dollars (\$10,000) for a facility licensed to
18 care for 51 or more persons.

19 (3) For a violation that the department determines resulted in
20 the death of a person receiving care at a therapeutic day services
21 facility, community treatment facility, transitional shelter care
22 facility, transitional housing placement provider, small family
23 home, crisis nursery, group home, enhanced behavioral supports
24 home licensed as a group home, or short-term residential treatment
25 center, the civil penalty shall be assessed as follows:

26 (A) Seven thousand five hundred dollars (\$7,500) for a facility
27 licensed to care for 40 or fewer children.

28 (B) Ten thousand dollars (\$10,000) for a facility licensed to
29 care for 41 to 100, inclusive, children.

30 (C) Fifteen thousand dollars (\$15,000) for a facility licensed
31 to care for more than 100 children.

32 (4) For a violation that the department determines resulted in
33 the death of a youth receiving care at a runaway and homeless
34 youth shelter licensed as a group home, the civil penalty shall be
35 five thousand dollars (\$5,000).

36 (5) For a violation that the department determines resulted in
37 the death of a child receiving care through a foster family agency,
38 the civil penalty shall be seven thousand five hundred dollars
39 (\$7,500).

1 (6) *For a violation that the department determines resulted in*
2 *the death of an individual receiving care or services through a*
3 *full-service or noncustodial adoption agency, the civil penalty*
4 *shall be seven thousand five hundred dollars (\$7,500).*

5 (f) (1) (A) *For a violation that the department determines*
6 *constitutes physical abuse, as defined in Section 15610.63 of the*
7 *Welfare and Institutions Code, or resulted in serious bodily injury,*
8 *as defined in Section 243 of the Penal Code, to a resident at an*
9 *adult residential facility, social rehabilitation facility, enhanced*
10 *behavioral supports home licensed as an adult residential facility,*
11 *adult residential facility for persons with special health care needs,*
12 *or community crisis home, the civil penalty shall be ten thousand*
13 *dollars (\$10,000).*

14 (B) *For a violation that the department determines constitutes*
15 *physical abuse, as defined in Section 15610.63 of the Welfare and*
16 *Institutions Code, or resulted in serious bodily injury, as defined*
17 *in Section 243 of the Penal Code, to a person receiving care at an*
18 *adult day program, the civil penalty shall be assessed as follows:*

19 (i) *Two thousand five hundred dollars (\$2,500) for a facility*
20 *licensed to care for 50 or fewer persons.*

21 (ii) *Five thousand dollars (\$5,000) for a facility licensed to care*
22 *for 51 or more persons.*

23 (C) *For a violation that the department determines constitutes*
24 *physical abuse, as defined in paragraph (2), or resulted in serious*
25 *bodily injury, as defined in Section 243 of the Penal Code, to a*
26 *person receiving care at a therapeutic day services facility,*
27 *community treatment facility, transitional shelter care facility,*
28 *transitional housing placement provider, small family home, crisis*
29 *nursery, group home, enhanced behavioral supports home licensed*
30 *as a group home, or short-term residential treatment center, the*
31 *civil penalty shall be assessed as follows:*

32 (i) *Two thousand five hundred dollars (\$2,500) for a facility*
33 *licensed to care for 40 or fewer children.*

34 (ii) *Five thousand dollars (\$5,000) for a facility licensed to care*
35 *for 41 to 100, inclusive, children.*

36 (iii) *Ten thousand dollars (\$10,000) for a facility licensed to*
37 *care for more than 100 children.*

38 (D) *For a violation that the department determines constitutes*
39 *physical abuse, as defined in paragraph (2), or resulted in serious*
40 *bodily injury, as defined in Section 243 of the Penal Code, to a*

1 youth receiving care at a runaway and homeless youth shelter
2 licensed as a group home, the civil penalty shall be one thousand
3 dollars (\$1,000).

4 (E) For a violation that the department determines constitutes
5 physical abuse, as defined in paragraph (2), or resulted in serious
6 bodily injury, as defined in Section 243 of the Penal Code, to a
7 child receiving care through a foster family agency, the civil
8 penalty shall be two thousand five hundred dollars (\$2,500).

9 (F) For a violation that the department determines constitutes
10 physical abuse, as defined in paragraph (2), or resulted in serious
11 bodily injury, as defined in Section 243 of the Penal Code, to an
12 individual receiving care or services through a full-service or
13 noncustodial adoption agency, the civil penalty shall be two
14 thousand five hundred dollars (\$2,500).

15 (2) For purposes of subparagraphs (C), (D), (E), and (F) of
16 paragraph (1), “physical abuse” includes physical injury inflicted
17 upon a child by another person by other than accidental means,
18 sexual abuse as defined in Section 11165.1 of the Penal Code,
19 neglect as defined in Section 11165.2 of the Penal Code, or
20 unlawful corporal punishment or injury as defined in Section
21 11165.4 of the Penal Code when the person responsible for the
22 child’s welfare is a licensee, administrator, or employee of any
23 facility licensed to care for children.

24 (g) (1) Before the assessment of a civil penalty pursuant to
25 subdivision (e) or (f), the decision shall be approved by the
26 program administrator of the Community Care Licensing Division.

27 (2) (A) The department shall reduce the amount of a civil
28 penalty due pursuant to subdivision (e) or (f) by the amount of the
29 civil penalty already assessed for the underlying violation.

30 (B) If the amount of the civil penalty that the department has
31 already assessed for the underlying violation exceeds the amount
32 of the penalty pursuant to subdivision (e) or (f), the larger amount
33 shall prevail and be due and payable as already assessed by the
34 department.

35 (h) (1) A notification of a deficiency written by a representative
36 of the department shall include a factual description of the nature
37 of the deficiency fully stating the manner in which the licensee
38 failed to comply with the specified statute or regulation, and, if
39 applicable, the particular place or area of the facility in which the
40 deficiency occurred. The department shall make a good faith effort

1 to work with the licensee to determine the cause of the deficiency
2 and ways to prevent any repeat violations.

3 (2) The department shall adopt regulations setting forth the
4 appeal procedures for deficiencies.

5 (i) (1) A licensee shall have the right to submit to the
6 department a written request for a formal review of a civil penalty
7 assessed pursuant to subdivision (e) or (f) within 15 business days
8 of receipt of the notice of a civil penalty assessment and shall
9 provide all available supporting documentation at that time. The
10 review shall be conducted by the deputy director of the Community
11 Care Licensing Division. The licensee may submit additional
12 supporting documentation that was unavailable at the time of
13 submitting the request for review within the first 30 business days
14 after submitting the request for review. If the department requires
15 additional information from the licensee, that information shall
16 be requested within the first 30 business days after receiving the
17 request for review. The licensee shall provide this additional
18 information within 30 business days of receiving the request from
19 the department. If the deputy director determines that the civil
20 penalty was not assessed, or the finding of deficiency was not
21 made, in accordance with applicable statutes or regulations of the
22 department, he or she may amend or dismiss the civil penalty or
23 finding of deficiency. The licensee shall be notified in writing of
24 the deputy director's decision within 60 business days of the date
25 when all necessary information has been provided to the
26 department by the licensee.

27 (2) Upon exhausting the review described in paragraph (1), a
28 licensee may further appeal that decision to an administrative law
29 judge. Proceedings shall be conducted in accordance with Chapter
30 5 (commencing with Section 11500) of Part 1 of Division 3 of Title
31 2 of the Government Code, and the department shall have all the
32 powers granted by those provisions. In all proceedings conducted
33 in accordance with this section, the standard of proof shall be by
34 a preponderance of the evidence.

35 (3) If, in addition to an assessment of civil penalties, the
36 department elects to file an administrative action to suspend or
37 revoke the facility license that includes violations relating to the
38 assessment of the civil penalties, the department review of the
39 pending appeal shall cease and the assessment of the civil penalties
40 shall be heard as part of the administrative action process.

1 (4) Civil penalties shall be due and payable when administrative
2 appeals have been exhausted. Unless payment arrangements have
3 been made that are acceptable to the department, a civil penalty
4 not paid within 30 days shall be subject to late fees, as specified
5 by the department in regulation.

6 (j) (1) A licensee shall have the right to submit to the
7 department a written request for a formal review of any other civil
8 penalty or deficiency not described in subdivision (i) within 15
9 business days of receipt of the notice of a civil penalty assessment
10 or a finding of a deficiency, and shall provide all available
11 supporting documentation at that time. The review shall be
12 conducted by a regional manager of the Community Care Licensing
13 Division. The licensee may submit additional supporting
14 documentation that was unavailable at the time of submitting the
15 request for review within the first 30 business days after submitting
16 the request for review. If the department requires additional
17 information from the licensee, that information shall be requested
18 within the first 30 business days after receiving the request for
19 review. The licensee shall provide this additional information
20 within 30 business days of receiving the request from the
21 department. If the regional manager determines that the civil
22 penalty was not assessed, or the finding of the deficiency was not
23 made, in accordance with applicable statutes or regulations of the
24 department, he or she may amend or dismiss the civil penalty or
25 finding of deficiency. The licensee shall be notified in writing of
26 the regional manager's decision within 60 business days of the
27 date when all necessary information has been provided to the
28 department by the licensee.

29 (2) Upon exhausting the review described in paragraph (1), the
30 licensee may further appeal that decision to the program
31 administrator of the Community Care Licensing Division within
32 15 business days of receipt of notice of the regional manager's
33 decision. The licensee may submit additional supporting
34 documentation that was unavailable at the time of appeal to the
35 program administrator within the first 30 business days after
36 requesting that appeal. If the department requires additional
37 information from the licensee, that information shall be requested
38 within the first 30 business days after receiving the request for the
39 appeal. The licensee shall provide this additional information
40 within 30 business days of receiving the request from the

1 department. If the program administrator determines that the civil
2 penalty was not assessed, or the finding of the deficiency was not
3 made, in accordance with applicable statutes or regulations of the
4 department, he or she may amend or dismiss the civil penalty or
5 finding of deficiency. The licensee shall be notified in writing of
6 the program administrator's decision within 60 business days of
7 the date when all necessary information has been provided to the
8 department by the licensee. The program administrator's decision
9 is considered final and concludes the licensee's administrative
10 appeal rights regarding the appeal conducted pursuant to this
11 paragraph.

12 (3) Civil penalties shall be due and payable when administrative
13 appeals have been exhausted. Unless payment arrangements have
14 been made that are acceptable to the department, a civil penalty
15 not paid within 30 days shall be subject to late fees, as specified
16 by the department in regulation.

17 (k) The department shall adopt regulations implementing this
18 section.

19 (l) The department shall, by January 1, 2016, amend its
20 regulations to reflect the changes to this section made by Section
21 2 of Chapter 813 of the Statutes of 2014.

22 (m) As provided in Section 11466.31 of the Welfare and
23 Institutions Code, the department may offset civil penalties owed
24 by a group home or short-term residential treatment center against
25 moneys to be paid by a county for the care of minors after the
26 group home or short-term residential treatment center has
27 exhausted its appeal of the civil penalty assessment. The
28 department shall provide the group home or short-term residential
29 treatment center a reasonable opportunity to pay the civil penalty
30 before instituting the offset provision.

31 (n) Notwithstanding the Administrative Procedure Act (Chapter
32 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
33 Title 2 of the Government Code), the department may implement
34 and administer the changes made by the act that added this
35 subdivision through all-county letters or similar written
36 instructions until regulations are adopted pursuant to the
37 Administrative Procedure Act.

38 (o) This section shall become operative on July 1, 2017.

39 SEC. 3. Section 1566.7 of the Health and Safety Code is
40 amended to read:

1 1566.7. The department shall notify affected placement
2 agencies and the Office of the State Long-Term Care Ombudsman,
3 as defined in subdivision (c) of Section 9701 of the ~~Health and~~
4 ~~Safety Welfare and Institutions~~ Code, whenever the department
5 substantiates that a violation has ~~occurred~~ *occurred*, which poses
6 a serious threat to the health and safety of any resident when the
7 violation results in the assessment of any penalty or causes an
8 accusation to be filed for the revocation of a license. If the violation
9 is appealed by the facility within ~~10~~ *15 business* days, the
10 department shall only notify placement agencies of the violation
11 when the appeal has been exhausted. If the appeal process has not
12 been completed within 60 days, the placement agency shall be
13 notified with a notation which indicates that the case is still under
14 appeal. The notice to each placement agency shall be updated
15 monthly for the following 24-month period and shall include the
16 name and location of the facility, the amount of the fine, the nature
17 of the violation, the corrective action taken, the status of the
18 revocation, and the resolution of the complaint. At any time during
19 which a facility is found to have one or more of the following
20 serious deficiencies, the director shall provide an immediate notice
21 of not to exceed five working days to the placement agency:

22 (a) Discovery that an employee of the facility has a criminal
23 record which would affect the facility's compliance with Section
24 1522.

25 (b) Discovery that a serious incident ~~which~~ *that* resulted in
26 physical or emotional trauma of a resident has occurred in a facility.

27 ~~SEC. 2. Section 1568.0822 of the Health and Safety Code is~~
28 ~~amended to read:~~

29 ~~1568.0822. (a) In addition to the suspension, temporary~~
30 ~~suspension, or revocation of a license issued under this chapter,~~
31 ~~the department shall levy civil penalties as follows:~~

32 ~~(b) (1) The amount of the civil penalty shall be one hundred~~
33 ~~dollars (\$100) per day for each violation of this chapter if an agency~~
34 ~~or facility fails to correct a deficiency after being provided a~~
35 ~~specified length of time to correct that deficiency.~~

36 ~~(A) If a licensee or a licensee's representative submits evidence~~
37 ~~to the department that the licensee has corrected a deficiency, and~~
38 ~~the department, after reviewing that evidence, has determined that~~
39 ~~the deficiency has been corrected, the civil penalty shall cease as~~
40 ~~of the day the department received that evidence.~~

1 ~~(B) If the department deems it necessary, the department shall~~
2 ~~inspect the facility within five working days after the department~~
3 ~~receives evidence pursuant to subparagraph (A) to confirm that~~
4 ~~the deficiency has been corrected.~~

5 ~~(C) If the department determines that the deficiency has not~~
6 ~~been corrected, the civil penalties shall continue to accrue from~~
7 ~~the date of the original citation.~~

8 ~~(D) If the department is able to verify that the deficiency was~~
9 ~~corrected prior to the date on which the department received the~~
10 ~~evidence pursuant to subparagraph (A), the civil penalty shall cease~~
11 ~~as of that earlier date.~~

12 ~~(2) (A) If the department issues a notification of deficiency to~~
13 ~~an agency or facility for a repeat violation of a violation specified~~
14 ~~in paragraph (1), the department shall assess an immediate civil~~
15 ~~penalty of two hundred fifty dollars (\$250) per repeat violation~~
16 ~~and one hundred dollars (\$100) for each day the repeat violation~~
17 ~~continues after citation.~~

18 ~~(B) For purposes of this section, “repeat violation” means the~~
19 ~~violation within 12 months of a prior violation of a statutory or~~
20 ~~regulatory provision designated by the same combination of letters~~
21 ~~or numerals, or both letters and numerals.~~

22 ~~(3) If the nature or seriousness of the violation or the frequency~~
23 ~~of the violation warrants a higher penalty or an immediate civil~~
24 ~~penalty assessment, or both, as provided in this chapter, a~~
25 ~~correction of the deficiency shall not impact the imposition of a~~
26 ~~civil penalty.~~

27 ~~(e) Notwithstanding Section 1568.07, the department shall assess~~
28 ~~an immediate civil penalty of five hundred dollars (\$500) per~~
29 ~~violation and one hundred dollars (\$100) for each day the violation~~
30 ~~continues after citation for any of the following serious violations:~~

31 ~~(1) Any violation that the department determines resulted in the~~
32 ~~injury or illness of a resident.~~

33 ~~(2) (A) Fire clearance violations, including, but not limited to,~~
34 ~~overcapacity, ambulatory status, inoperable smoke alarms, and~~
35 ~~inoperable fire alarm systems. The civil penalty shall not be~~
36 ~~assessed if the licensee has done either of the following:~~

37 ~~(i) Requested the appropriate fire clearance based on ambulatory,~~
38 ~~nonambulatory, or bedridden status, and the decision is pending.~~

39 ~~(ii) Initiated eviction proceedings.~~

1 ~~(B) A licensee denied a clearance for bedridden residents may~~
2 ~~appeal to the fire authority, and, if that appeal is denied, may~~
3 ~~subsequently appeal to the Office of the State Fire Marshal, and~~
4 ~~shall not be assessed an immediate civil penalty until the final~~
5 ~~appeal is decided, or after 60 days has passed from the date of the~~
6 ~~citation, whichever is earlier.~~

7 ~~(3) Absence of supervision, as required by statute and regulation.~~

8 ~~(4) Accessible bodies of water, when prohibited in this chapter~~
9 ~~or regulations adopted pursuant to this chapter.~~

10 ~~(5) Accessible firearms, ammunition, or both.~~

11 ~~(6) Refused entry to a facility or any part of a facility in violation~~
12 ~~of Section 1568.07 or 1568.071.~~

13 ~~(7) The presence of a person subject to a department Order of~~
14 ~~Exclusion on the premises.~~

15 ~~(d) If the department issues a notification of deficiency to a~~
16 ~~facility for a repeat violation of a violation specified in subdivision~~
17 ~~(e), the department shall assess an immediate civil penalty of one~~
18 ~~thousand dollars (\$1,000) per repeat violation and one hundred~~
19 ~~dollars (\$100) for each day the repeat violation continues after~~
20 ~~citation.~~

21 ~~(e) For a violation that the department determines resulted in~~
22 ~~the death of a resident, the civil penalty shall be fifteen thousand~~
23 ~~dollars (\$15,000).~~

24 ~~(f) For a violation that the department determines constitutes~~
25 ~~physical abuse, as defined in Section 15610.63 of the Welfare and~~
26 ~~Institutions Code, or resulted in serious bodily injury, as defined~~
27 ~~in Section 243 of the Penal Code, to a resident, the civil penalty~~
28 ~~shall be ten thousand dollars (\$10,000).~~

29 ~~(g) (1) Before the assessment of a civil penalty pursuant to~~
30 ~~subdivision (e) or (f), the decision shall be approved by the program~~
31 ~~administrator of the Community Care Licensing Division.~~

32 ~~(2) (A) The department shall reduce the amount of a civil~~
33 ~~penalty due pursuant to subdivision (e) or (f) by the amount of the~~
34 ~~civil penalty already assessed for the underlying violation.~~

35 ~~(B) If the amount of the civil penalty that the department has~~
36 ~~already assessed for the underlying violation exceeds the amount~~
37 ~~of the penalty pursuant to subdivision (e) or (f), the larger amount~~
38 ~~shall prevail and be due and payable as already assessed by the~~
39 ~~department.~~

1 (h) ~~(1)~~ A notification of a deficiency written by a representative
2 of the department shall include a factual description of the nature
3 of the deficiency fully stating the manner in which the licensee
4 failed to comply with the specified statute or regulation, and, if
5 applicable, the particular place or area in which the deficiency
6 occurred. The department shall make a good faith effort to work
7 with the licensee to determine the cause of the deficiency and ways
8 to prevent any repeat violations.

9 ~~(2)~~ The department shall adopt regulations setting forth appeal
10 procedures for deficiencies.

11 (i) ~~(1)~~ A licensee shall have the right to submit to the
12 department a written request for a formal review of a civil penalty
13 assessed pursuant to subdivision (e) or (f) within 15 business days
14 of receipt of the notice of a civil penalty assessment and shall
15 provide all available supporting documentation at that time. The
16 review shall be conducted by the deputy director of the Community
17 Care Licensing Division. The licensee may submit additional
18 supporting documentation that was unavailable at the time of
19 submitting the request for review within the first 30 business days
20 after submitting the request for review. If the department requires
21 additional information from the licensee, that information shall be
22 requested within the first 30 business days after receiving the
23 request for review. The licensee shall provide this additional
24 information within 30 business days of receiving the request from
25 the department. If the deputy director determines that the civil
26 penalty was not assessed, or the finding of deficiency that resulted
27 in the assessment of the civil penalty was not made, in accordance
28 with applicable statutes or regulations of the department, he or she
29 may amend or dismiss the civil penalty or finding of deficiency.
30 The licensee shall be notified in writing of the deputy director's
31 decision within 60 business days of the date when all necessary
32 information has been provided to the department by the licensee.

33 ~~(2) (A)~~ Upon exhausting the review described in paragraph (1),
34 a licensee may further appeal that decision to an administrative
35 law judge. Proceedings shall be conducted in accordance with
36 Chapter 5 (commencing with Section 11500) of Part 1 of Division
37 3 of Title 2 of the Government Code, and the department shall
38 have all the powers granted by those provisions. In all proceedings
39 conducted in accordance with this section, the standard of proof
40 shall be by a preponderance of the evidence.

1 ~~(B) Notwithstanding any other law, if a licensee prevails in an~~
2 ~~appeal pursuant to subparagraph (A), the department shall refund~~
3 ~~to the licensee the amount of any civil penalty that the licensee~~
4 ~~had paid in connection with the citation within 10 business days~~
5 ~~of a final determination by the administrative law judge.~~

6 ~~(3) If, in addition to an assessment of civil penalties, the~~
7 ~~department elects to file an administrative action to suspend or~~
8 ~~revoke the facility license that includes violations relating to the~~
9 ~~assessment of the civil penalties, the department review of the~~
10 ~~pending appeal shall cease and the assessment of the civil penalties~~
11 ~~shall be heard as part of the administrative action process.~~

12 ~~(j) (1) A licensee shall have the right to submit to the~~
13 ~~department a written request for a formal review of any other civil~~
14 ~~penalty or deficiency not described in subdivision (i) within 15~~
15 ~~business days of receipt of the notice of a civil penalty assessment~~
16 ~~or a finding of a deficiency, and shall provide all available~~
17 ~~supporting documentation at that time. The review shall be~~
18 ~~conducted by a regional manager of the Community Care Licensing~~
19 ~~Division. The licensee may submit additional supporting~~
20 ~~documentation that was unavailable at the time of submitting the~~
21 ~~request for review within the first 30 business days after submitting~~
22 ~~the request for review. If the department requires additional~~
23 ~~information from the licensee, that information shall be requested~~
24 ~~within the first 30 business days after receiving the request for~~
25 ~~review. The licensee shall provide this additional information~~
26 ~~within 30 business days of receiving the request from the~~
27 ~~department. If the regional manager determines that the civil~~
28 ~~penalty was not assessed, or the finding of the deficiency was not~~
29 ~~made, in accordance with applicable statutes or regulations of the~~
30 ~~department, he or she may amend or dismiss the civil penalty or~~
31 ~~finding of deficiency. The licensee shall be notified in writing of~~
32 ~~the regional manager's decision within 60 business days of the~~
33 ~~date when all necessary information has been provided to the~~
34 ~~department by the licensee.~~

35 ~~(2) (A) Upon exhausting the review described in paragraph (1),~~
36 ~~the licensee may further appeal that decision to the program~~
37 ~~administrator of the Community Care Licensing Division within~~
38 ~~15 business days of receipt of notice of the regional manager's~~
39 ~~decision. The licensee may submit additional supporting~~
40 ~~documentation that was unavailable at the time of appeal to the~~

~~1 program administrator within the first 30 business days after
2 requesting that appeal. If the department requires additional
3 information from the licensee, that information shall be requested
4 within the first 30 business days after receiving the request for the
5 appeal. The licensee shall provide this additional information
6 within 30 business days of receiving the request from the
7 department. If the program administrator determines that the civil
8 penalty was not assessed, or the finding of the deficiency was not
9 made, in accordance with applicable statutes or regulations of the
10 department, he or she may amend or dismiss the civil penalty or
11 finding of deficiency. The licensee shall be notified in writing of
12 the program administrator's decision within 60 business days of
13 the date when all necessary information has been provided to the
14 department by the licensee. The program administrator's decision
15 is considered final and concludes the licensee's administrative
16 appeal rights regarding the appeal conducted pursuant to this
17 paragraph.~~

~~18 (B) Notwithstanding any other law, if a licensee prevails in an
19 appeal pursuant to subparagraph (A), the department shall refund
20 to the licensee the amount of any civil penalty that the licensee
21 had paid in connection with the citation within 10 business days
22 of a final determination by the administrator of the Community
23 Care Licensing Division.~~

~~24 (k) The department shall adopt regulations implementing this
25 section.~~

~~26 (l) The department shall, by January 1, 2016, amend its
27 regulations to reflect the changes to this section made by Section
28 4 of Chapter 813 of the Statutes of 2014.~~

~~29 (m) Notwithstanding the Administrative Procedure Act (Chapter
30 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
31 Title 2 of the Government Code), the department may implement
32 and administer the changes made by the act that added this
33 subdivision through all county letters or similar written instructions
34 until regulations are adopted pursuant to the Administrative
35 Procedure Act.~~

~~36 SEC. 4. Section 1568.0822 of the Health and Safety Code is
37 amended to read:~~

~~38 1568.0822. (a) In addition to the suspension, temporary
39 suspension, or revocation of a license issued under this chapter,
40 the department may levy a civil penalty.~~

(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter, except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. Except as otherwise provided in this chapter, a civil penalty assessment shall not exceed one hundred fifty dollars (\$150) per day per violation.

(c) Notwithstanding Section 1568.07, the department shall assess an immediate civil penalty of one hundred fifty dollars (\$150) per day per violation for any of the following serious violations:

(1) (A) Fire clearance violations, including, but not limited to, overcapacity, ambulatory status, inoperable smoke alarms, and inoperable fire alarm systems. The civil penalty shall not be assessed if the licensee has done either of the following:

(i) Requested the appropriate fire clearance based on ambulatory, nonambulatory, or bedridden status, and the decision is pending.

(ii) Initiated eviction proceedings.

(B) A licensee denied a clearance for bedridden residents may appeal to the fire authority, and, if that appeal is denied, may subsequently appeal to the Office of the State Fire Marshal, and shall not be assessed an immediate civil penalty until the final appeal is decided, or after 60 days has passed from the date of the citation, whichever is earlier.

(2) Absence of supervision, as required by statute and regulation.

(3) Accessible bodies of water, when prohibited in this chapter or regulations adopted pursuant to this chapter.

(4) Accessible firearms, ammunition, or both.

(5) Refused entry to a facility or any part of a facility in violation of Section 1568.07 or 1568.071.

(6) The presence of an excluded person on the premises.

(d) For a violation that the department determines resulted in the death of a resident, the civil penalty shall be fifteen thousand dollars (\$15,000).

(e) For a violation that the department determines constitutes physical abuse, as defined in Section 15610.63 of the Welfare and Institutions Code, or resulted in serious bodily injury, as defined in Section 243 of the Penal Code, to a resident, the civil penalty shall be ten thousand dollars (\$10,000).

1 (f) Prior to the issuance of a citation imposing a civil penalty
2 pursuant to subdivision (d) or (e), the decision shall be approved
3 by the program administrator of the Community Care Licensing
4 Division.

5 (g) Notwithstanding Section 1568.07, any residential care
6 facility that is cited for repeating the same violation of this chapter
7 within 12 months of the first violation is subject to an immediate
8 civil penalty of one hundred fifty dollars (\$150) and fifty dollars
9 (\$50) for each day the violation continues until the deficiency is
10 corrected.

11 (h) Any residential care facility that is assessed a civil penalty
12 pursuant to subdivision (g) that repeats the same violation of this
13 chapter within 12 months of the violation subject to subdivision
14 (g) shall be assessed an immediate civil penalty of one thousand
15 dollars (\$1,000) and one hundred dollars (\$100) for each day the
16 violation continues until the deficiency is corrected, provided that
17 the violation is a serious violation.

18 (i) (1) The department shall adopt regulations setting forth the
19 appeal procedures for deficiencies.

20 (2) A notification of a deficiency written by a representative of
21 the department shall include a factual description of the nature of
22 the deficiency fully stating the manner in which the licensee failed
23 to comply with the specified statute or regulation, and, if
24 applicable, the particular place or area of the facility in which the
25 deficiency occurred.

26 (j) (1) A licensee shall have the right to submit to the
27 department a written request for a formal review of a civil penalty
28 assessed pursuant to subdivisions (d) and (e) within 15 business
29 days of receipt of the notice of a civil penalty assessment and shall
30 provide all available supporting documentation at that time. The
31 review shall be conducted by the deputy director of the Community
32 Care Licensing Division. The licensee may submit additional
33 supporting documentation that was unavailable at the time of
34 submitting the request for review within the first 30 business days
35 after submitting the request for review. If the department requires
36 additional information from the licensee, that information shall be
37 requested within the first 30 business days after receiving the
38 request for review. The licensee shall provide this additional
39 information within 30 business days of receiving the request from
40 the department. If the deputy director determines that the civil

1 penalty was not assessed, or the finding of deficiency that resulted
2 in the assessment of the civil penalty was not made, in accordance
3 with applicable statutes or regulations of the department, he or she
4 may amend or dismiss the civil penalty or finding of deficiency.
5 The licensee shall be notified in writing of the deputy director's
6 decision within 60 business days of the date when all necessary
7 information has been provided to the department by the licensee.

8 (2) Upon exhausting the review described in paragraph (1), a
9 licensee may further appeal that decision to an administrative law
10 judge. Proceedings shall be conducted in accordance with Chapter
11 5 (commencing with Section 11500) of Part 1 of Division 3 of
12 Title 2 of the Government Code, and the department shall have all
13 the powers granted by those provisions. In all proceedings
14 conducted in accordance with this section, the standard of proof
15 shall be by a preponderance of the evidence.

16 (3) If, in addition to an assessment of civil penalties, the
17 department elects to file an administrative action to suspend or
18 revoke the facility license that includes violations relating to the
19 assessment of the civil penalties, the department review of the
20 pending appeal shall cease and the assessment of the civil penalties
21 shall be heard as part of the administrative action process.

22 (k) (1) A licensee shall have the right to submit to the
23 department a written request for a formal review of any other civil
24 penalty or deficiency not described in subdivision (j) within 15
25 business days of receipt of the notice of a civil penalty assessment
26 or a finding of a deficiency, and shall provide all available
27 supporting documentation at that time. The review shall be
28 conducted by a regional manager of the Community Care Licensing
29 Division. The licensee may submit additional supporting
30 documentation that was unavailable at the time of submitting the
31 request for review within the first 30 business days after submitting
32 the request for review. If the department requires additional
33 information from the licensee, that information shall be requested
34 within the first 30 business days after receiving the request for
35 review. The licensee shall provide this additional information
36 within 30 business days of receiving the request from the
37 department. If the regional manager determines that the civil
38 penalty was not assessed, or the finding of the deficiency was not
39 made, in accordance with applicable statutes or regulations of the
40 department, he or she may amend or dismiss the civil penalty or

1 finding of deficiency. The licensee shall be notified in writing of
2 the regional manager's decision within 60 business days of the
3 date when all necessary information has been provided to the
4 department by the licensee.

5 (2) Upon exhausting the review described in paragraph (1), the
6 licensee may further appeal that decision to the program
7 administrator of the Community Care Licensing Division within
8 15 business days of receipt of notice of the regional manager's
9 decision. The licensee may submit additional supporting
10 documentation that was unavailable at the time of appeal to the
11 program administrator within the first 30 business days after
12 requesting that appeal. If the department requires additional
13 information from the licensee, that information shall be requested
14 within the first 30 business days after receiving the request for the
15 appeal. The licensee shall provide this additional information
16 within 30 business days of receiving the request from the
17 department. If the program administrator determines that the civil
18 penalty was not assessed, or the finding of the deficiency was not
19 made, in accordance with applicable statutes or regulations of the
20 department, he or she may amend or dismiss the civil penalty or
21 finding of deficiency. The licensee shall be notified in writing of
22 the program administrator's decision within 60 business days of
23 the date when all necessary information has been provided to the
24 department by the licensee. The program administrator's decision
25 is considered final and concludes the licensee's administrative
26 appeal rights regarding the appeal conducted pursuant to this
27 paragraph.

28 (l) The department shall adopt regulations implementing this
29 section.

30 (m) The department shall, by January 1, 2016, amend its
31 regulations to reflect the changes to this section made by Section
32 4 of Chapter 813 of the Statutes of 2014.

33 (n) Notwithstanding the Administrative Procedure Act (Chapter
34 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
35 Title 2 of the Government Code), the department may implement
36 and administer the changes made by the act that added this
37 subdivision through all-county letters or similar written instructions
38 until regulations are adopted pursuant to the Administrative
39 Procedure Act.

40 ~~(o) This section shall become operative on July 1, 2015.~~

1 (o) *This section shall become inoperative on July 1, 2017, and,*
2 *as of January 1, 2018, is repealed, unless a later enacted statute,*
3 *that becomes operative on or before January 1, 2018, deletes or*
4 *extends the dates on which it becomes inoperative and is repealed.*

5 SEC. 5. *Section 1568.0822 is added to the Health and Safety*
6 *Code, to read:*

7 1568.0822. (a) *In addition to the suspension, temporary*
8 *suspension, or revocation of a license issued under this chapter,*
9 *the department shall levy civil penalties as follows:*

10 (b) (1) *The amount of the civil penalty shall be one hundred*
11 *dollars (\$100) per day for each violation of this chapter if a facility*
12 *fails to correct a deficiency after being provided a specified length*
13 *of time to correct that deficiency.*

14 (A) *If a licensee or a licensee's representative submits evidence*
15 *to the department that the licensee has corrected a deficiency, and*
16 *the department, after reviewing that evidence, has determined that*
17 *the deficiency has been corrected, the civil penalty shall cease as*
18 *of the day the department received that evidence.*

19 (B) *If the department deems it necessary, the department shall*
20 *inspect the facility within five working days after the department*
21 *receives evidence pursuant to subparagraph (A) to confirm that*
22 *the deficiency has been corrected.*

23 (C) *If the department determines that the deficiency has not*
24 *been corrected, the civil penalty shall continue to accrue from the*
25 *date of the original citation.*

26 (D) *If the department is able to verify that the deficiency was*
27 *corrected prior to the date on which the department received the*
28 *evidence pursuant to subparagraph (A), the civil penalty shall*
29 *cease as of that earlier date.*

30 (2) (A) *If the department issues a notification of deficiency to*
31 *a facility for a repeat violation of a violation specified in paragraph*
32 *(1), the department shall assess an immediate civil penalty of two*
33 *hundred fifty dollars (\$250) per repeat violation and one hundred*
34 *dollars (\$100) for each day the repeat violation continues after*
35 *citation. The notification of deficiency shall state the manner in*
36 *which the deficiency constitutes a repeat violation and shall be*
37 *submitted to a supervisor for review and approval.*

38 (B) *For purposes of this section, "repeat violation" means a*
39 *violation within 12 months of a prior violation of a statutory or*

1 regulatory provision designated by the same combination of letters
2 or numerals, or both letters and numerals.

3 (3) If the nature or seriousness of the violation or the frequency
4 of the violation warrants a higher penalty or an immediate civil
5 penalty assessment, or both, as provided in this chapter, a
6 correction of the deficiency shall not impact the imposition of a
7 civil penalty.

8 (c) The department shall assess an immediate civil penalty of
9 five hundred dollars (\$500) per violation and one hundred dollars
10 (\$100) for each day the violation continues after citation for any
11 of the following serious violations:

12 (1) Any violation that the department determines resulted in the
13 injury or illness of a resident.

14 (2) (A) Fire clearance violations, including, but not limited to,
15 overcapacity, ambulatory status, inoperable smoke alarms, and
16 inoperable fire alarm systems. The civil penalty shall not be
17 assessed if the licensee has done either of the following:

18 (i) Requested the appropriate fire clearance based on
19 ambulatory, nonambulatory, or bedridden status, and the decision
20 is pending.

21 (ii) Initiated eviction proceedings.

22 (B) A licensee denied a clearance for bedridden residents may
23 appeal to the fire authority, and, if that appeal is denied, may
24 subsequently appeal to the Office of the State Fire Marshal, and
25 shall not be assessed an immediate civil penalty until the final
26 appeal is decided, or after 60 days has passed from the date of the
27 citation, whichever is earlier.

28 (3) Absence of supervision, as required by statute and
29 regulation.

30 (4) Accessible bodies of water, when prohibited in this chapter
31 or regulations adopted pursuant to this chapter.

32 (5) Accessible firearms, ammunition, or both.

33 (6) Refused entry to a facility or any part of a facility in violation
34 of Section 1568.07 or 1568.071.

35 (7) The presence of a person subject to a department Order of
36 Exclusion on the premises.

37 (d) If the department issues a notification of deficiency to a
38 facility for a repeat violation of a violation specified in subdivision
39 (c), the department shall assess an immediate civil penalty of one
40 thousand dollars (\$1,000) per repeat violation and one hundred

1 dollars (\$100) for each day the repeat violation continues after
2 citation. The notification of deficiency shall state the manner in
3 which the deficiency constitutes a repeat violation and shall be
4 submitted to a supervisor for review and approval.

5 (e) For a violation that the department determines resulted in
6 the death of a resident, the civil penalty shall be fifteen thousand
7 dollars (\$15,000).

8 (f) For a violation that the department determines constitutes
9 physical abuse, as defined in Section 15610.63 of the Welfare and
10 Institutions Code, or resulted in serious bodily injury, as defined
11 in Section 243 of the Penal Code, to a resident, the civil penalty
12 shall be ten thousand dollars (\$10,000).

13 (g) (1) Before the assessment of a civil penalty pursuant to
14 subdivision (e) or (f), the decision shall be approved by the
15 program administrator of the Community Care Licensing Division.

16 (2) (A) The department shall reduce the amount of a civil
17 penalty due pursuant to subdivision (e) or (f) by the amount of the
18 civil penalty already assessed for the underlying violation.

19 (B) If the amount of the civil penalty that the department has
20 already assessed for the underlying violation exceeds the amount
21 of the penalty pursuant to subdivision (e) or (f), the larger amount
22 shall prevail and be due and payable as already assessed by the
23 department.

24 (h) (1) A notification of a deficiency written by a representative
25 of the department shall include a factual description of the nature
26 of the deficiency fully stating the manner in which the licensee
27 failed to comply with the specified statute or regulation, and, if
28 applicable, the particular place or area in which the deficiency
29 occurred. The department shall make a good faith effort to work
30 with the licensee to determine the cause of the deficiency and ways
31 to prevent any repeat violations.

32 (2) The department shall adopt regulations setting forth appeal
33 procedures for deficiencies.

34 (i) (1) A licensee shall have the right to submit to the
35 department a written request for a formal review of a civil penalty
36 assessed pursuant to subdivision (e) or (f) within 15 business days
37 of receipt of the notice of a civil penalty assessment and shall
38 provide all available supporting documentation at that time. The
39 review shall be conducted by the deputy director of the Community
40 Care Licensing Division. The licensee may submit additional

1 supporting documentation that was unavailable at the time of
2 submitting the request for review within the first 30 business days
3 after submitting the request for review. If the department requires
4 additional information from the licensee, that information shall
5 be requested within the first 30 business days after receiving the
6 request for review. The licensee shall provide this additional
7 information within 30 business days of receiving the request from
8 the department. If the deputy director determines that the civil
9 penalty was not assessed, or the finding of deficiency that resulted
10 in the assessment of the civil penalty was not made, in accordance
11 with applicable statutes or regulations of the department, he or
12 she may amend or dismiss the civil penalty or finding of deficiency.
13 The licensee shall be notified in writing of the deputy director's
14 decision within 60 business days of the date when all necessary
15 information has been provided to the department by the licensee.

16 (2) Upon exhausting the review described in paragraph (1), a
17 licensee may further appeal that decision to an administrative law
18 judge. Proceedings shall be conducted in accordance with Chapter
19 5 (commencing with Section 11500) of Part 1 of Division 3 of Title
20 2 of the Government Code, and the department shall have all the
21 powers granted by those provisions. In all proceedings conducted
22 in accordance with this section, the standard of proof shall be by
23 a preponderance of the evidence.

24 (3) If, in addition to an assessment of civil penalties, the
25 department elects to file an administrative action to suspend or
26 revoke the facility license that includes violations relating to the
27 assessment of the civil penalties, the department review of the
28 pending appeal shall cease and the assessment of the civil penalties
29 shall be heard as part of the administrative action process.

30 (4) Civil penalties shall be due and payable when administrative
31 appeals have been exhausted. Unless payment arrangements have
32 been made that are acceptable to the department, a civil penalty
33 not paid within 30 days shall be subject to late fees, as specified
34 by the department in regulation.

35 (j) (1) A licensee shall have the right to submit to the
36 department a written request for a formal review of any other civil
37 penalty or deficiency not described in subdivision (i) within 15
38 business days of receipt of the notice of a civil penalty assessment
39 or a finding of a deficiency, and shall provide all available
40 supporting documentation at that time. The review shall be

1 conducted by a regional manager of the Community Care Licensing
2 Division. The licensee may submit additional supporting
3 documentation that was unavailable at the time of submitting the
4 request for review within the first 30 business days after submitting
5 the request for review. If the department requires additional
6 information from the licensee, that information shall be requested
7 within the first 30 business days after receiving the request for
8 review. The licensee shall provide this additional information
9 within 30 business days of receiving the request from the
10 department. If the regional manager determines that the civil
11 penalty was not assessed, or the finding of the deficiency was not
12 made, in accordance with applicable statutes or regulations of the
13 department, he or she may amend or dismiss the civil penalty or
14 finding of deficiency. The licensee shall be notified in writing of
15 the regional manager's decision within 60 business days of the
16 date when all necessary information has been provided to the
17 department by the licensee.

18 (2) Upon exhausting the review described in paragraph (1), the
19 licensee may further appeal that decision to the program
20 administrator of the Community Care Licensing Division within
21 15 business days of receipt of notice of the regional manager's
22 decision. The licensee may submit additional supporting
23 documentation that was unavailable at the time of appeal to the
24 program administrator within the first 30 business days after
25 requesting that appeal. If the department requires additional
26 information from the licensee, that information shall be requested
27 within the first 30 business days after receiving the request for the
28 appeal. The licensee shall provide this additional information
29 within 30 business days of receiving the request from the
30 department. If the program administrator determines that the civil
31 penalty was not assessed, or the finding of the deficiency was not
32 made, in accordance with applicable statutes or regulations of the
33 department, he or she may amend or dismiss the civil penalty or
34 finding of deficiency. The licensee shall be notified in writing of
35 the program administrator's decision within 60 business days of
36 the date when all necessary information has been provided to the
37 department by the licensee. The program administrator's decision
38 is considered final and concludes the licensee's administrative
39 appeal rights regarding the appeal conducted pursuant to this
40 paragraph.

1 (3) *Civil penalties shall be due and payable when administrative*
2 *appeals have been exhausted. Unless payment arrangements have*
3 *been made that are acceptable to the department, a civil penalty*
4 *not paid within 30 days shall be subject to late fees, as specified*
5 *by the department in regulation.*

6 (k) *The department shall adopt regulations implementing this*
7 *section.*

8 (l) *The department shall, by January 1, 2016, amend its*
9 *regulations to reflect the changes to this section made by Section*
10 *4 of Chapter 813 of the Statutes of 2014.*

11 (m) *Notwithstanding the Administrative Procedure Act (Chapter*
12 *3.5 (commencing with Section 11340) of Part 1 of Division 3 of*
13 *Title 2 of the Government Code), the department may implement*
14 *and administer the changes made by the act that added this*
15 *subdivision through all-county letters or similar written*
16 *instructions until regulations are adopted pursuant to the*
17 *Administrative Procedure Act.*

18 (n) *This section shall become operative on July 1, 2017.*

19 SEC. 6. *Section 1569.335 of the Health and Safety Code is*
20 *amended to read:*

21 1569.335. (a) *The department shall provide the Office of the*
22 *State Long-Term Care Ombudsman, as defined in subdivision (c)*
23 *of Section 9701 of the Welfare and Institutions Code, with a*
24 *precautionary notification if the department begins to prepare to*
25 *issue a temporary suspension or revocation of any license, so that*
26 *the office may properly prepare to provide advocacy services if*
27 *and when necessary.*

28 (b) *The department shall notify affected public placement*
29 *agencies and the Office of the State Long-Term Care Ombudsman*
30 *whenever the department substantiates that a violation has occurred*
31 *that poses a serious threat to the health and safety of any resident*
32 *when the violation results in the assessment of any penalty or*
33 *causes an accusation to be filed for the revocation of a license.*

34 (c) (1) *If the violation is appealed by the facility within 10 15*
35 *business days, the department shall only notify placement agencies*
36 *of the violation when the appeal has been exhausted.*

37 (2) *If the appeal process has not been completed within 60 days,*
38 *the placement agency shall be notified with a notation that indicates*
39 *that the case is still under appeal.*

1 (3) The notice to each placement agency shall be updated
2 monthly for the following 24-month period and shall include the
3 name and location of the facility, the amount of the fine, the nature
4 of the violation, the corrective action taken, the status of the
5 revocation, and the resolution of the complaint.

6 ~~SEC. 3. Section 1569.49 of the Health and Safety Code is~~
7 ~~amended to read:~~

8 ~~1569.49. (a) In addition to the suspension, temporary~~
9 ~~suspension, or revocation of a license issued under this chapter,~~
10 ~~the department shall levy civil penalties as follows:~~

11 ~~(b) (1) The amount of the civil penalty shall be one hundred~~
12 ~~dollars (\$100) per day for each violation of this chapter if the~~
13 ~~agency or facility failed to correct a deficiency after being provided~~
14 ~~a specified length of time to correct that deficiency.~~

15 ~~(A) If a licensee or a licensee's representative submits evidence~~
16 ~~to the department that the licensee has corrected a deficiency, and~~
17 ~~the department, after reviewing that evidence, has determined that~~
18 ~~the deficiency has been corrected, the civil penalty shall cease as~~
19 ~~of the day the department received that evidence.~~

20 ~~(B) If the department deems it necessary, the department shall~~
21 ~~inspect the facility within five working days after the department~~
22 ~~receives evidence pursuant to subparagraph (A) to confirm that~~
23 ~~the deficiency has been corrected.~~

24 ~~(C) If the department determines that the deficiency has not~~
25 ~~been corrected, the civil penalties shall continue to accrue from~~
26 ~~the date of the original citation.~~

27 ~~(D) If the department is able to verify that the deficiency was~~
28 ~~corrected prior to the date on which the department received the~~
29 ~~evidence pursuant to subparagraph (A), the civil penalty shall cease~~
30 ~~as of that earlier date.~~

31 ~~(2) (A) If the department issues a notification of deficiency to~~
32 ~~an agency or facility for a repeat violation of a violation specified~~
33 ~~in paragraph (1), the department shall assess an immediate civil~~
34 ~~penalty of two hundred fifty dollars (\$250) per repeat violation~~
35 ~~and one hundred dollars (\$100) for each day the repeat violation~~
36 ~~continues after citation.~~

37 ~~(B) For purposes of this section, "repeat violation" means the~~
38 ~~violation within 12 months of a prior violation of a statutory or~~
39 ~~regulatory provision designated by the same combination of letters~~
40 ~~or numerals or, both letters and numerals.~~

1 ~~(3) If the nature or seriousness of the violation or the frequency~~
2 ~~of the violation warrants a higher penalty or an immediate civil~~
3 ~~penalty assessment, or both, as provided in this chapter, a~~
4 ~~correction of the deficiency shall not impact the imposition of a~~
5 ~~civil penalty.~~

6 ~~(e) The department shall assess an immediate civil penalty of~~
7 ~~five hundred dollars (\$500) per violation and one hundred dollars~~
8 ~~(\$100) for each day the violation continues after citation for any~~
9 ~~of the following serious violations:~~

10 ~~(1) Any violation that results in the injury or illness of a resident.~~

11 ~~(2) (A) Fire clearance violations, including, but not limited to,~~
12 ~~overcapacity, ambulatory status, inoperable smoke alarms, and~~
13 ~~inoperable fire alarm systems. The civil penalty shall not be~~
14 ~~assessed if the licensee has done either of the following:~~

15 ~~(i) Requested the appropriate fire clearance based on ambulatory,~~
16 ~~nonambulatory, or bedridden status, and the decision is pending.~~

17 ~~(ii) Initiated eviction proceedings.~~

18 ~~(B) A licensee denied a clearance for bedridden residents may~~
19 ~~appeal to the fire authority, and, if that appeal is denied, may~~
20 ~~subsequently appeal to the Office of the State Fire Marshal, and~~
21 ~~shall not be assessed an immediate civil penalty until the final~~
22 ~~appeal is decided, or after 60 days has passed from the date of the~~
23 ~~citation, whichever is earlier.~~

24 ~~(3) Absence of supervision as required by statute or regulation.~~

25 ~~(4) Accessible bodies of water, when prohibited in this chapter~~
26 ~~or regulations adopted pursuant to this chapter.~~

27 ~~(5) Accessible firearms, ammunition, or both.~~

28 ~~(6) Refused entry to a facility or any part of a facility in violation~~
29 ~~of Section 1569.32, 1569.33, or 1569.35.~~

30 ~~(7) The presence of a person subject to a department Order of~~
31 ~~Exclusion on the premises.~~

32 ~~(d) If the department issues a notification of deficiency to a~~
33 ~~facility for a repeat violation of a violation specified in subdivision~~
34 ~~(e), the department shall assess an immediate civil penalty of one~~
35 ~~thousand dollars (\$1,000) per repeat violation and one hundred~~
36 ~~dollars (\$100) for each day the repeat violation continues after~~
37 ~~citation.~~

38 ~~(e) For a violation that the department determines resulted in~~
39 ~~the death of a resident, the civil penalty shall be fifteen thousand~~
40 ~~dollars (\$15,000).~~

1 ~~(f) For a violation that the department determines constitutes~~
2 ~~physical abuse, as defined in Section 15610.63 of the Welfare and~~
3 ~~Institutions Code, or resulted in serious bodily injury, as defined~~
4 ~~in Section 15610.67 of the Welfare and Institutions Code, to a~~
5 ~~resident, the civil penalty shall be ten thousand dollars (\$10,000).~~

6 ~~(g) (1) Before the assessment of a civil penalty pursuant to~~
7 ~~subdivision (e) or (f), the decision shall be approved by the program~~
8 ~~administrator of the Community Care Licensing Division.~~

9 ~~(2) (A) The department shall reduce the amount of a civil~~
10 ~~penalty pursuant to subdivision (e) or (f) by the amount of the civil~~
11 ~~penalty already assessed for the underlying violation.~~

12 ~~(B) If the amount of the civil penalty that the department has~~
13 ~~already assessed for the underlying violation exceeds the amount~~
14 ~~of the penalty pursuant to subdivision (e) or (f), the larger amount~~
15 ~~shall prevail and be due and payable as already assessed by the~~
16 ~~department.~~

17 ~~(h) (1) A notification of a deficiency written by a representative~~
18 ~~of the department shall include a factual description of the nature~~
19 ~~of the deficiency fully stating the manner in which the licensee~~
20 ~~failed to comply with the specified statute or regulation, and, if~~
21 ~~applicable, the particular place or area of the facility in which the~~
22 ~~deficiency occurred. The department shall make a good faith effort~~
23 ~~to work with the licensee to determine the cause of the deficiency~~
24 ~~and ways to prevent any repeat violations.~~

25 ~~(2) The department shall adopt regulations setting forth the~~
26 ~~appeal procedures for deficiencies.~~

27 ~~(i) (1) A licensee shall have the right to submit to the~~
28 ~~department a written request for a formal review of a civil penalty~~
29 ~~assessed pursuant to subdivisions (d) and (e) within 15 business~~
30 ~~days of receipt of the notice of a civil penalty assessment and shall~~
31 ~~provide all available supporting documentation at that time. The~~
32 ~~review shall be conducted by the deputy director of the Community~~
33 ~~Care Licensing Division. The licensee may submit additional~~
34 ~~supporting documentation that was unavailable at the time of~~
35 ~~submitting the request for review within the first 30 business days~~
36 ~~after submitting the request for review. If the department requires~~
37 ~~additional information from the licensee, that information shall be~~
38 ~~requested within the first 30 business days after receiving the~~
39 ~~request for review. The licensee shall provide this additional~~
40 ~~information within 30 business days of receiving the request from~~

1 the department. If the deputy director determines that the civil
2 penalty was not assessed, or the finding of the deficiency that
3 resulted in the assessment of the civil penalty was not made, in
4 accordance with applicable statutes or regulations of the
5 department, he or she may amend or dismiss the civil penalty or
6 finding of deficiency. The licensee shall be notified in writing of
7 the deputy director's decision within 60 business days of the date
8 when all necessary information has been provided to the
9 department by the licensee.

10 (2) (A) Upon exhausting the review described in paragraph (1),
11 a licensee may further appeal that decision to an administrative
12 law judge. Proceedings shall be conducted in accordance with
13 Chapter 5 (commencing with Section 11500) of Part 1 of Division
14 3 of Title 2 of the Government Code, and the department shall
15 have all the powers granted by those provisions. In all proceedings
16 conducted in accordance with this section, the standard of proof
17 shall be by a preponderance of the evidence.

18 (B) Notwithstanding any other law, if a licensee prevails in an
19 appeal pursuant to subparagraph (A), the department shall refund
20 to the licensee the amount of any civil penalty that the licensee
21 had paid in connection with the citation within 10 business days
22 of a final determination by the administrative law judge.

23 (3) If, in addition to an assessment of civil penalties, the
24 department elects to file an administrative action to suspend or
25 revoke the facility license that includes violations relating to the
26 assessment of the civil penalties, the department review of the
27 pending appeal shall cease and the assessment of the civil penalties
28 shall be heard as part of the administrative action process.

29 (j) (1) A licensee shall have the right to submit to the
30 department a written request for a formal review of any other civil
31 penalty or deficiency not described in subdivision (i) within 15
32 business days of receipt of the notice of a civil penalty assessment
33 or a finding of a deficiency, and shall provide all available
34 supporting documentation at that time. The review shall be
35 conducted by a regional manager of the Community Care Licensing
36 Division. The licensee may submit additional supporting
37 documentation that was unavailable at the time of submitting the
38 request for review within the first 30 business days after submitting
39 the request for review. If the department requires additional
40 information from the licensee, that information shall be requested

1 within the first 30 business days after receiving the request for
2 review. The licensee shall provide this additional information
3 within 30 business days of receiving the request from the
4 department. If the regional manager determines that the civil
5 penalty was not assessed, or the finding of the deficiency was not
6 made, in accordance with applicable statutes or regulations of the
7 department, he or she may amend or dismiss the civil penalty or
8 finding of deficiency. The licensee shall be notified in writing of
9 the regional manager's decision within 60 business days of the
10 date when all necessary information has been provided to the
11 department by the licensee.

12 (2) (A) Upon exhausting the review described in paragraph (1),
13 the licensee may further appeal that decision to the program
14 administrator of the Community Care Licensing Division within
15 15 business days of receipt of notice of the regional manager's
16 decision. The licensee may submit additional supporting
17 documentation that was unavailable at the time of appeal to the
18 program administrator within the first 30 business days after
19 requesting that appeal. If the department requires additional
20 information from the licensee, that information shall be requested
21 within the first 30 business days after receiving the request for the
22 appeal. The licensee shall provide this additional information
23 within 30 business days of receiving the request from the
24 department. If the program administrator determines that the civil
25 penalty was not assessed, or the finding of the deficiency was not
26 made, in accordance with applicable statutes or regulations of the
27 department, he or she may amend or dismiss the civil penalty or
28 finding of deficiency. The licensee shall be notified in writing of
29 the program administrator's decision within 60 business days of
30 the date when all necessary information has been provided to the
31 department by the licensee. The program administrator's decision
32 is considered final and concludes the licensee's administrative
33 appeal rights regarding the appeal conducted pursuant to this
34 paragraph.

35 (B) Notwithstanding any other law, if a licensee prevails in an
36 appeal pursuant to subparagraph (A), the department shall refund
37 to the licensee the amount of any civil penalty that the licensee
38 had paid in connection with the citation within 10 business days
39 of a final determination by the administrator of the Community
40 Care Licensing Division.

1 ~~(k) The department shall adopt regulations implementing this~~
2 ~~section.~~

3 ~~(l) The department shall, by January 1, 2016, amend its~~
4 ~~regulations to reflect the changes to this section made by Section~~
5 ~~6 of Chapter 813 of the Statutes of 2014.~~

6 ~~(m) Notwithstanding the Administrative Procedure Act (Chapter~~
7 ~~3.5 (commencing with Section 11340) of Part 1 of Division 3 of~~
8 ~~Title 2 of the Government Code), the department may implement~~
9 ~~and administer the changes made by the act that added this~~
10 ~~subdivision through all county letters or similar written instructions~~
11 ~~until regulations are adopted pursuant to the Administrative~~
12 ~~Procedure Act.~~

13 *SEC. 7. Section 1569.49 of the Health and Safety Code is*
14 *amended to read:*

15 1569.49. (a) In addition to the suspension, temporary
16 suspension, or revocation of a license issued under this chapter,
17 the department may levy a civil penalty.

18 (b) The amount of the civil penalty shall not be less than
19 twenty-five dollars (\$25) or more than fifty dollars (\$50) per day
20 for each violation of this chapter except where the nature or
21 seriousness of the violation or the frequency of the violation
22 warrants a higher penalty or an immediate civil penalty assessment,
23 or both, as determined by the department. Except as otherwise
24 provided in this chapter, a civil penalty assessment shall not exceed
25 one hundred fifty dollars (\$150) per day per violation.

26 (c) Notwithstanding Section 1569.33, the department shall assess
27 an immediate civil penalty of one hundred fifty dollars (\$150) per
28 day per violation for any of the following serious violations:

29 (1) (A) Fire clearance violations, including, but not limited to,
30 overcapacity, ambulatory status, inoperable smoke alarms, and
31 inoperable fire alarm systems. The civil penalty shall not be
32 assessed if the licensee has done either of the following:

33 (i) Requested the appropriate fire clearance based on ambulatory,
34 nonambulatory, or bedridden status, and the decision is pending.

35 (ii) Initiated eviction proceedings.

36 (B) A licensee denied a clearance for bedridden residents may
37 appeal to the fire authority, and, if that appeal is denied, may
38 subsequently appeal to the Office of the State Fire Marshal, and
39 shall not be assessed an immediate civil penalty until the final

1 appeal is decided, or after 60 days has passed from the date of the
2 citation, whichever is earlier.

3 (2) Absence of supervision as required by statute or regulation.

4 (3) Accessible bodies of water, when prohibited in this chapter
5 or regulations adopted pursuant to this chapter.

6 (4) Accessible firearms, ammunition, or both.

7 (5) Refused entry to a facility or any part of a facility in violation
8 of Section 1569.32, 1569.33, or 1569.35.

9 (6) The presence of an excluded person on the premises.

10 (d) For a violation that the department determines resulted in
11 the death of a resident, the civil penalty shall be fifteen thousand
12 dollars (\$15,000).

13 (e) For a violation that the department determines constitutes
14 physical abuse, as defined in Section 15610.63 of the Welfare and
15 Institutions Code, or resulted in serious bodily injury, as defined
16 in Section 15610.67 of the Welfare and Institutions Code, to a
17 resident, the civil penalty shall be ten thousand dollars (\$10,000).

18 (f) Prior to the issuance of a citation imposing a civil penalty
19 pursuant to subdivision (d) or (e), the decision shall be approved
20 by the program administrator of the Community Care Licensing
21 Division.

22 (g) Notwithstanding Section 1569.33, any residential care
23 facility for the elderly that is cited for repeating the same violation
24 of this chapter within 12 months of the first violation is subject to
25 an immediate civil penalty of one hundred fifty dollars (\$150) and
26 fifty dollars (\$50) for each day the violation continues until the
27 deficiency is corrected.

28 (h) Any residential care facility for the elderly that is assessed
29 a civil penalty pursuant to subdivision (g) that repeats the same
30 violation of this chapter within 12 months of the violation subject
31 to subdivision (g) shall be assessed an immediate civil penalty of
32 one thousand dollars (\$1,000) and one hundred dollars (\$100) for
33 each day the violation continues until the deficiency is corrected.

34 (i) (1) The department shall adopt regulations setting forth the
35 appeal procedures for deficiencies.

36 (2) A notification of a deficiency written by a representative of
37 the department shall include a factual description of the nature of
38 the deficiency fully stating the manner in which the licensee failed
39 to comply with the specified statute or regulation, and, if

1 applicable, the particular place or area of the facility in which the
2 deficiency occurred.

3 (j) (1) A licensee shall have the right to submit to the
4 department a written request for a formal review of a civil penalty
5 assessed pursuant to subdivisions (d) and (e) within 15 business
6 days of receipt of the notice of a civil penalty assessment and shall
7 provide all available supporting documentation at that time. The
8 review shall be conducted by the deputy director of the Community
9 Care Licensing Division. The licensee may submit additional
10 supporting documentation that was unavailable at the time of
11 submitting the request for review within the first 30 business days
12 after submitting the request for review. If the department requires
13 additional information from the licensee, that information shall be
14 requested within the first 30 business days after receiving the
15 request for review. The licensee shall provide this additional
16 information within 30 business days of receiving the request from
17 the department. If the deputy director determines that the civil
18 penalty was not assessed, or the finding of the deficiency that
19 resulted in the assessment of the civil penalty was not made, in
20 accordance with applicable statutes or regulations of the
21 department, he or she may amend or dismiss the civil penalty or
22 finding of deficiency. The licensee shall be notified in writing of
23 the deputy director's decision within 60 business days of the date
24 when all necessary information has been provided to the
25 department by the licensee.

26 (2) Upon exhausting the review described in paragraph (1), a
27 licensee may further appeal that decision to an administrative law
28 judge. Proceedings shall be conducted in accordance with Chapter
29 5 (commencing with Section 11500) of Part 1 of Division 3 of
30 Title 2 of the Government Code, and the department shall have all
31 the powers granted by those provisions. In all proceedings
32 conducted in accordance with this section, the standard of proof
33 shall be by a preponderance of the evidence.

34 (3) If, in addition to an assessment of civil penalties, the
35 department elects to file an administrative action to suspend or
36 revoke the facility license that includes violations relating to the
37 assessment of the civil penalties, the department review of the
38 pending appeal shall cease and the assessment of the civil penalties
39 shall be heard as part of the administrative action process.

1 (k) (1) A licensee shall have the right to submit to the
2 department a written request for a formal review of any other civil
3 penalty or deficiency not described in subdivision (j) within 15
4 business days of receipt of the notice of a civil penalty assessment
5 or a finding of a deficiency, and shall provide all available
6 supporting documentation at that time. The review shall be
7 conducted by a regional manager of the Community Care Licensing
8 Division. The licensee may submit additional supporting
9 documentation that was unavailable at the time of submitting the
10 request for review within the first 30 business days after submitting
11 the request for review. If the department requires additional
12 information from the licensee, that information shall be requested
13 within the first 30 business days after receiving the request for
14 review. The licensee shall provide this additional information
15 within 30 business days of receiving the request from the
16 department. If the regional manager determines that the civil
17 penalty was not assessed, or the finding of the deficiency was not
18 made, in accordance with applicable statutes or regulations of the
19 department, he or she may amend or dismiss the civil penalty or
20 finding of deficiency. The licensee shall be notified in writing of
21 the regional manager's decision within 60 business days of the
22 date when all necessary information has been provided to the
23 department by the licensee.

24 (2) Upon exhausting the review described in paragraph (1), the
25 licensee may further appeal that decision to the program
26 administrator of the Community Care Licensing Division within
27 15 business days of receipt of notice of the regional manager's
28 decision. The licensee may submit additional supporting
29 documentation that was unavailable at the time of appeal to the
30 program administrator within the first 30 business days after
31 requesting that appeal. If the department requires additional
32 information from the licensee, that information shall be requested
33 within the first 30 business days after receiving the request for the
34 appeal. The licensee shall provide this additional information
35 within 30 business days of receiving the request from the
36 department. If the program administrator determines that the civil
37 penalty was not assessed, or the finding of the deficiency was not
38 made, in accordance with applicable statutes or regulations of the
39 department, he or she may amend or dismiss the civil penalty or
40 finding of deficiency. The licensee shall be notified in writing of

1 the program administrator's decision within 60 business days of
2 the date when all necessary information has been provided to the
3 department by the licensee. The program administrator's decision
4 is considered final and concludes the licensee's administrative
5 appeal rights regarding the appeal conducted pursuant to this
6 paragraph.

7 (l) The department shall adopt regulations implementing this
8 section.

9 (m) The department shall, by January 1, 2016, amend its
10 regulations to reflect the changes to this section made by Section
11 6 of Chapter 813 of the Statutes of 2014.

12 (n) Notwithstanding the Administrative Procedure Act (Chapter
13 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
14 Title 2 of the Government Code), the department may implement
15 and administer the changes made by the act that added this
16 subdivision through all-county letters or similar written instructions
17 until regulations are adopted pursuant to the Administrative
18 Procedure Act.

19 ~~(o) This section shall become operative on July 1, 2015.~~

20 (o) *This section shall become inoperative on July 1, 2017, and,*
21 *as of January 1, 2018, is repealed, unless a later enacted statute,*
22 *that becomes operative on or before January 1, 2018, deletes or*
23 *extends the dates on which it becomes inoperative and is repealed.*

24 SEC. 8. *Section 1569.49 is added to the Health and Safety*
25 *Code, to read:*

26 1569.49. (a) *In addition to the suspension, temporary*
27 *suspension, or revocation of a license issued under this chapter,*
28 *the department shall levy civil penalties as follows:*

29 (b) (1) *The amount of the civil penalty shall be one hundred*
30 *dollars (\$100) per day for each violation of this chapter if the*
31 *facility fails to correct a deficiency after being provided a specified*
32 *length of time to correct that deficiency.*

33 (A) *If a licensee or a licensee's representative submits evidence*
34 *to the department that the licensee has corrected a deficiency, and*
35 *the department, after reviewing that evidence, has determined that*
36 *the deficiency has been corrected, the civil penalty shall cease as*
37 *of the day the department received that evidence.*

38 (B) *If the department deems it necessary, the department shall*
39 *inspect the facility within five working days after the department*

1 receives evidence pursuant to subparagraph (A) to confirm that
2 the deficiency has been corrected.

3 (C) If the department determines that the deficiency has not
4 been corrected, the civil penalty shall continue to accrue from the
5 date of the original citation.

6 (D) If the department is able to verify that the deficiency was
7 corrected prior to the date on which the department received the
8 evidence pursuant to subparagraph (A), the civil penalty shall
9 cease as of that earlier date.

10 (2) (A) If the department issues a notification of deficiency to
11 a facility for a repeat violation of a violation specified in paragraph
12 (1), the department shall assess an immediate civil penalty of two
13 hundred fifty dollars (\$250) per repeat violation and one hundred
14 dollars (\$100) for each day the repeat violation continues after
15 citation. The notification of deficiency shall state the manner in
16 which the deficiency constitutes a repeat violation and shall be
17 submitted to a supervisor for review and approval.

18 (B) For purposes of this section, “repeat violation” means a
19 violation within 12 months of a prior violation of a statutory or
20 regulatory provision designated by the same combination of letters
21 or numerals, or both letters and numerals.

22 (3) If the nature or seriousness of the violation or the frequency
23 of the violation warrants a higher penalty or an immediate civil
24 penalty assessment, or both, as provided in this chapter, a
25 correction of the deficiency shall not impact the imposition of a
26 civil penalty.

27 (c) The department shall assess an immediate civil penalty of
28 five hundred dollars (\$500) per violation and one hundred dollars
29 (\$100) for each day the violation continues after citation for any
30 of the following serious violations:

31 (1) Any violation that the department determines resulted in the
32 injury or illness of a resident.

33 (2) (A) Fire clearance violations, including, but not limited to,
34 overcapacity, ambulatory status, inoperable smoke alarms, and
35 inoperable fire alarm systems. The civil penalty shall not be
36 assessed if the licensee has done either of the following:

37 (i) Requested the appropriate fire clearance based on
38 ambulatory, nonambulatory, or bedridden status, and the decision
39 is pending.

40 (ii) Initiated eviction proceedings.

1 (B) A licensee denied a clearance for bedridden residents may
2 appeal to the fire authority, and, if that appeal is denied, may
3 subsequently appeal to the Office of the State Fire Marshal, and
4 shall not be assessed an immediate civil penalty until the final
5 appeal is decided, or after 60 days has passed from the date of the
6 citation, whichever is earlier.

7 (3) Absence of supervision as required by statute or regulation.

8 (4) Accessible bodies of water, when prohibited in this chapter
9 or regulations adopted pursuant to this chapter.

10 (5) Accessible firearms, ammunition, or both.

11 (6) Refused entry to a facility or any part of a facility in violation
12 of Section 1569.32, 1569.33, or 1569.35.

13 (7) The presence of a person subject to a department Order of
14 Exclusion on the premises.

15 (d) If the department issues a notification of deficiency to a
16 facility for a repeat violation of a violation specified in subdivision
17 (c), the department shall assess an immediate civil penalty of one
18 thousand dollars (\$1,000) per repeat violation and one hundred
19 dollars (\$100) for each day the repeat violation continues after
20 citation. The notification of deficiency shall state the manner in
21 which the deficiency constitutes a repeat violation and shall be
22 submitted to a supervisor for review and approval.

23 (e) For a violation that the department determines resulted in
24 the death of a resident, the civil penalty shall be fifteen thousand
25 dollars (\$15,000).

26 (f) For a violation that the department determines constitutes
27 physical abuse, as defined in Section 15610.63 of the Welfare and
28 Institutions Code, or resulted in serious bodily injury, as defined
29 in Section 15610.67 of the Welfare and Institutions Code, to a
30 resident, the civil penalty shall be ten thousand dollars (\$10,000).

31 (g) (1) Before the assessment of a civil penalty pursuant to
32 subdivision (e) or (f), the decision shall be approved by the
33 program administrator of the Community Care Licensing Division.

34 (2) (A) The department shall reduce the amount of a civil
35 penalty due pursuant to subdivision (e) or (f) by the amount of the
36 civil penalty already assessed for the underlying violation.

37 (B) If the amount of the civil penalty that the department has
38 already assessed for the underlying violation exceeds the amount
39 of the penalty pursuant to subdivision (e) or (f), the larger amount

1 *shall prevail and be due and payable as already assessed by the*
2 *department.*

3 *(h) (1) A notification of a deficiency written by a representative*
4 *of the department shall include a factual description of the nature*
5 *of the deficiency fully stating the manner in which the licensee*
6 *failed to comply with the specified statute or regulation, and, if*
7 *applicable, the particular place or area of the facility in which the*
8 *deficiency occurred. The department shall make a good faith effort*
9 *to work with the licensee to determine the cause of the deficiency*
10 *and ways to prevent any repeat violations.*

11 *(2) The department shall adopt regulations setting forth the*
12 *appeal procedures for deficiencies.*

13 *(i) (1) A licensee shall have the right to submit to the*
14 *department a written request for a formal review of a civil penalty*
15 *assessed pursuant to subdivisions (e) and (f) within 15 business*
16 *days of receipt of the notice of a civil penalty assessment and shall*
17 *provide all available supporting documentation at that time. The*
18 *review shall be conducted by the deputy director of the Community*
19 *Care Licensing Division. The licensee may submit additional*
20 *supporting documentation that was unavailable at the time of*
21 *submitting the request for review within the first 30 business days*
22 *after submitting the request for review. If the department requires*
23 *additional information from the licensee, that information shall*
24 *be requested within the first 30 business days after receiving the*
25 *request for review. The licensee shall provide this additional*
26 *information within 30 business days of receiving the request from*
27 *the department. If the deputy director determines that the civil*
28 *penalty was not assessed, or the finding of the deficiency that*
29 *resulted in the assessment of the civil penalty was not made, in*
30 *accordance with applicable statutes or regulations of the*
31 *department, he or she may amend or dismiss the civil penalty or*
32 *finding of deficiency. The licensee shall be notified in writing of*
33 *the deputy director's decision within 60 business days of the date*
34 *when all necessary information has been provided to the*
35 *department by the licensee.*

36 *(2) Upon exhausting the review described in paragraph (1), a*
37 *licensee may further appeal that decision to an administrative law*
38 *judge. Proceedings shall be conducted in accordance with Chapter*
39 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*
40 *2 of the Government Code, and the department shall have all the*

1 powers granted by those provisions. In all proceedings conducted
2 in accordance with this section, the standard of proof shall be by
3 a preponderance of the evidence.

4 (3) If, in addition to an assessment of civil penalties, the
5 department elects to file an administrative action to suspend or
6 revoke the facility license that includes violations relating to the
7 assessment of the civil penalties, the department review of the
8 pending appeal shall cease and the assessment of the civil penalties
9 shall be heard as part of the administrative action process.

10 (4) Civil penalties shall be due and payable when administrative
11 appeals have been exhausted. Unless payment arrangements have
12 been made that are acceptable to the department, a civil penalty
13 not paid within 30 days shall be subject to late fees, as specified
14 by the department in regulation.

15 (j) (1) A licensee shall have the right to submit to the
16 department a written request for a formal review of any other civil
17 penalty or deficiency not described in subdivision (i) within 15
18 business days of receipt of the notice of a civil penalty assessment
19 or a finding of a deficiency, and shall provide all available
20 supporting documentation at that time. The review shall be
21 conducted by a regional manager of the Community Care Licensing
22 Division. The licensee may submit additional supporting
23 documentation that was unavailable at the time of submitting the
24 request for review within the first 30 business days after submitting
25 the request for review. If the department requires additional
26 information from the licensee, that information shall be requested
27 within the first 30 business days after receiving the request for
28 review. The licensee shall provide this additional information
29 within 30 business days of receiving the request from the
30 department. If the regional manager determines that the civil
31 penalty was not assessed, or the finding of the deficiency was not
32 made, in accordance with applicable statutes or regulations of the
33 department, he or she may amend or dismiss the civil penalty or
34 finding of deficiency. The licensee shall be notified in writing of
35 the regional manager's decision within 60 business days of the
36 date when all necessary information has been provided to the
37 department by the licensee.

38 (2) Upon exhausting the review described in paragraph (1), the
39 licensee may further appeal that decision to the program
40 administrator of the Community Care Licensing Division within

1 15 business days of receipt of notice of the regional manager's
2 decision. The licensee may submit additional supporting
3 documentation that was unavailable at the time of appeal to the
4 program administrator within the first 30 business days after
5 requesting that appeal. If the department requires additional
6 information from the licensee, that information shall be requested
7 within the first 30 business days after receiving the request for the
8 appeal. The licensee shall provide this additional information
9 within 30 business days of receiving the request from the
10 department. If the program administrator determines that the civil
11 penalty was not assessed, or the finding of the deficiency was not
12 made, in accordance with applicable statutes or regulations of the
13 department, he or she may amend or dismiss the civil penalty or
14 finding of deficiency. The licensee shall be notified in writing of
15 the program administrator's decision within 60 business days of
16 the date when all necessary information has been provided to the
17 department by the licensee. The program administrator's decision
18 is considered final and concludes the licensee's administrative
19 appeal rights regarding the appeal conducted pursuant to this
20 paragraph.

21 (3) Civil penalties shall be due and payable when administrative
22 appeals have been exhausted. Unless payment arrangements have
23 been made that are acceptable to the department, a civil penalty
24 not paid within 30 days shall be subject to late fees, as specified
25 by the department in regulation.

26 (k) The department shall adopt regulations implementing this
27 section.

28 (l) The department shall, by January 1, 2016, amend its
29 regulations to reflect the changes to this section made by Section
30 6 of Chapter 813 of the Statutes of 2014.

31 (m) Notwithstanding the Administrative Procedure Act (Chapter
32 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
33 Title 2 of the Government Code), the department may implement
34 and administer the changes made by the act that added this
35 subdivision through all-county letters or similar written
36 instructions until regulations are adopted pursuant to the
37 Administrative Procedure Act.

38 (n) This section shall become operative on July 1, 2017.

39 SEC. 9. Section 1596.819 of the Health and Safety Code is
40 amended to read:

1 1596.819. (a) Except as otherwise prohibited by law, the
2 department shall post licensing information on its Internet Web
3 site as follows:

4 (1) For each child day care facility as defined in Section
5 1596.750, except family day care homes, the information shall
6 include, but is not limited to, the name and address of the facility,
7 the licensed capacity of the facility, the status of the license, and
8 the number of site-visits, *inspections*, including the number of
9 citations, substantiated and ~~inconclusive~~ *unsubstantiated* complaint
10 inspections, and noncomplaint inspections during the preceding
11 five-year period.

12 (2) For each family day care home, the information shall include,
13 but is not limited to, the name of the home, the status of the license,
14 and the number of site-visits, *inspections*, including the number
15 of citations, substantiated and ~~inconclusive~~ *unsubstantiated*
16 complaint inspections, and noncomplaint inspections during the
17 preceding five-year period.

18 (b) The department shall update the information posted under
19 subdivision (a) on at least a monthly basis.

20 *SEC. 10. Section 1596.859 of the Health and Safety Code is*
21 *amended to read:*

22 1596.859. (a) (1) Each licensed child day care facility shall
23 make accessible to the public a copy of any licensing report or
24 other public licensing document pertaining to the facility that
25 documents a facility-visit, *inspection*, a substantiated complaint
26 investigation, a conference with a local licensing agency
27 management representative and the licensee in which issues of
28 noncompliance are discussed, or a copy of an accusation indicating
29 the department's intent to revoke the facility's license. An
30 individual licensing report and other licensing documents shall
31 not be required to be maintained beyond three years from the date
32 of issuance, and shall not include any information that would not
33 have been accessible to the public through the State Department
34 of Social Services Community Care Licensing Division.

35 (2) (A) Every child care resource and referral program
36 established pursuant to Article 2 (commencing with Section 8210)
37 of Chapter 2 of Part 6 of the Education Code, and every alternative
38 payment program established pursuant to Article 3 (commencing
39 with Section 8220) of Chapter 2 of Part 6 of the Education Code
40 shall advise every person who requests a child care referral of his

1 or her right to the licensing information of a licensed child day
2 care facility required to be maintained at the facility pursuant to
3 this section and to access any public files pertaining to the facility
4 that are maintained by the State Department of Social Services
5 Community Care Licensing Division.

6 (B) A written or oral advisement in substantially the following
7 form, with the telephone number of the local licensing office
8 included, will comply with the requirements of subparagraph (A):

9 “As a parent, you have the right to get information about any
10 substantiated or ~~inclusive~~ *unsubstantiated* complaints about a
11 child care provider that you select for your child. That information
12 is public and you can get it by calling the local licensing office.
13 This telephone number is ____.”

14 (b) Within 30 days after the date specified by the department
15 for a licensee to correct a deficiency, the department shall provide
16 the licensee with a licensing report or other appropriate document
17 verifying compliance or noncompliance. Notwithstanding any
18 other provision of law, and with good cause, the department may
19 provide the licensee with an alternate timeframe for providing the
20 licensing report or other appropriate document verifying
21 compliance or noncompliance. If the department provides the
22 licensee with an alternate timeframe, it shall also provide the
23 reasons for the alternate timeframe, in writing. The licensee shall
24 make this documentation available to the public.

25 ~~SEC. 4. Section 1596.8595 of the Health and Safety Code is~~
26 ~~amended to read:~~

27 ~~1596.8595. (a) (1) Each licensed child day care facility shall~~
28 ~~post a copy of any licensing report pertaining to the facility that~~
29 ~~documents either a facility inspection or a complaint investigation~~
30 ~~that results in a citation for a violation that, if not corrected, will~~
31 ~~create a direct and immediate risk to the health, safety, or personal~~
32 ~~rights of the children in care. The licensing report provided by the~~
33 ~~department shall be posted immediately upon receipt, adjacent to~~
34 ~~the postings required pursuant to Section 1596.817 and on, or~~
35 ~~immediately adjacent to, the interior side of the main door to the~~
36 ~~facility and shall remain posted for 30 consecutive days.~~

37 ~~(2) A family day care home shall comply with the posting~~
38 ~~requirements contained in paragraph (1) during the hours when~~
39 ~~clients are present.~~

~~(3) Failure to comply with paragraph (1) shall result in an immediate civil penalty of one hundred dollars (\$100).~~

~~(b) (1) Notwithstanding subdivision (b) of Section 1596.859, the licensee shall post a licensing report or other appropriate document verifying the licensee's compliance or noncompliance with the department's order to correct a deficiency that is subject to posting pursuant to paragraph (1) of subdivision (a). The licensing report or other document shall be posted immediately upon receipt, adjacent to the postings required pursuant to Section 1596.817, on, or immediately adjacent to, the interior side of the main door into the facility and shall be posted for a period of 30 consecutive days.~~

~~(2) A family day care home shall comply with the posting requirements contained in paragraph (1) during the hours when clients are present.~~

~~(3) Failure to comply with paragraph (1) shall result in an immediate civil penalty of one hundred dollars (\$100).~~

~~(e) (1) A licensed child day care facility shall provide to the parents or guardians of each child receiving services in the facility copies of any licensing report that documents a citation issued pursuant to subdivision (e) or (f) of Section 1569.99 or subdivision (e) or (f) of Section 1597.58 or that represents an immediate risk to the health, safety, or personal rights of children in care as set forth in paragraph (1) of subdivision (a) of Section 1596.893b.~~

~~(2) Upon enrollment of a new child in a facility, the licensee shall provide to the parents or legal guardians of the newly enrolling child copies of any licensing report that the licensee has received during the prior 12-month period that documents a citation issued pursuant to subdivision (e) or (f) of Section 1569.99 or subdivision (e) or (f) of Section 1597.58 or that represents an immediate risk to the health, safety, or personal rights of children in care as set forth in paragraph (1) of subdivision (a) of Section 1596.893b.~~

~~(3) The licensee shall require each recipient of the licensing report described in paragraph (1) pertaining to a complaint investigation to sign a statement indicating that he or she has received the document and the date it was received.~~

~~(4) The licensee shall keep verification of receipt in each child's file.~~

1 ~~(d) (1) A licensed child day care facility shall provide to the~~
2 ~~parents or legal guardians of each child receiving services in the~~
3 ~~facility copies of any licensing document pertaining to a conference~~
4 ~~conducted by a local licensing agency management representative~~
5 ~~with the licensee in which issues of noncompliance are discussed.~~

6 ~~(2) Upon enrollment of a new child in a facility, the licensee~~
7 ~~shall provide to the parents or legal guardians of the newly~~
8 ~~enrolling child copies of any licensing document that the licensee~~
9 ~~has received during the prior 12-month period that pertains to a~~
10 ~~conference conducted by a local licensing agency management~~
11 ~~representative with the licensee in which issues of noncompliance~~
12 ~~are discussed.~~

13 ~~(3) The licensee shall require each recipient of the licensing~~
14 ~~document pertaining to a conference to sign a statement indicating~~
15 ~~that he or she has received the document and the date it was~~
16 ~~received.~~

17 ~~(4) The licensee shall keep verification of receipt in each child's~~
18 ~~file.~~

19 *SEC. 11. Section 1596.8595 of the Health and Safety Code is*
20 *amended to read:*

21 1596.8595. (a) (1) Each licensed child day care facility shall
22 post a copy of any licensing report pertaining to the facility that
23 documents either a facility—*visit inspection* or a complaint
24 investigation that results in a citation for a violation that, if not
25 corrected, will create a direct and immediate risk to the health,
26 safety, or personal rights of *the* children in care. The licensing
27 report provided by the department shall be posted immediately
28 upon receipt, adjacent to the postings required pursuant to Section
29 1596.817 and on, or immediately adjacent to, the interior side of
30 the main door to the facility and shall remain posted for 30
31 consecutive days.

32 (2) A family day care home shall comply with the posting
33 requirements contained in paragraph (1) during the hours when
34 clients are present.

35 (3) Failure to comply with paragraph (1) shall result in an
36 immediate civil penalty of one hundred dollars (\$100).

37 (b) (1) Notwithstanding subdivision (b) of Section 1596.859,
38 the licensee shall post a licensing report or other appropriate
39 document verifying the licensee's compliance or noncompliance
40 with the department's order to correct a deficiency that is subject

1 to posting pursuant to paragraph (1) of subdivision (a). The
2 licensing report or other document shall be posted immediately
3 upon receipt, adjacent to the postings required pursuant to Section
4 1596.817, on, or immediately adjacent to, the interior side of the
5 main door into the facility and shall be posted for a period of 30
6 consecutive days.

7 (2) A family day care home shall comply with the posting
8 requirements contained in paragraph (1) during the hours when
9 clients are present.

10 (3) Failure to comply with paragraph (1) shall result in an
11 immediate civil penalty of one hundred dollars (\$100).

12 (c) (1) A licensed child day care facility shall provide to the
13 parents or guardians of each child receiving services in the facility
14 copies of any licensing report that documents ~~any Type A citation~~
15 *a citation issued pursuant to subdivision (d) or (e) of Section*
16 *1596.99 or subdivision (d) or (e) of Section 1597.58* or that
17 represents an immediate risk to the health, safety, or personal rights
18 of children in care as set forth in paragraph (1) of subdivision (a)
19 of Section 1596.893b.

20 (2) Upon enrollment of a new child in a facility, the licensee
21 shall provide to the parents or legal guardians of the newly
22 enrolling child copies of any licensing report that the licensee has
23 received during the prior 12-month period that documents ~~any~~
24 ~~Type A citation~~ *a citation issued pursuant to subdivision (d) or*
25 *(e) of Section 1596.99 or subdivision (d) or (e) of Section 1597.58*
26 *or that represents an immediate risk to the health, safety, or*
27 *personal rights of children in care as set forth in paragraph (1) of*
28 *subdivision (a) of Section 1596.893b.*

29 (3) The licensee shall require each recipient of the licensing
30 report described in paragraph (1) pertaining to a complaint
31 investigation to sign a statement indicating that he or she has
32 received the document and the date it was received.

33 (4) The licensee shall keep verification of receipt in each child's
34 file.

35 (d) (1) A licensed child day care facility shall provide to the
36 parents or legal guardians of each child receiving services in the
37 facility copies of any licensing document pertaining to a conference
38 conducted by a local licensing agency management representative
39 with the licensee in which issues of noncompliance are discussed.

1 (2) Upon enrollment of a new child in a facility, the licensee
2 shall provide to the parents or legal guardians of the newly
3 enrolling child copies of any licensing document that the licensee
4 has received during the prior 12-month period that pertains to a
5 conference conducted by a local licensing agency management
6 representative with the licensee in which issues of noncompliance
7 are discussed.

8 (3) The licensee shall require each recipient of the licensing
9 document pertaining to a conference to sign a statement indicating
10 that he or she has received the document and the date it was
11 received.

12 (4) The licensee shall keep verification of receipt in each child's
13 file.

14 *(e) This section shall become inoperative on July 1, 2017, and,*
15 *as of January 1, 2018, is repealed, unless a later enacted statute,*
16 *that becomes operative on or before January 1, 2018, deletes or*
17 *extends the dates on which it becomes inoperative and is repealed.*

18 SEC. 12. Section 1596.8595 is added to the Health and Safety
19 Code, to read:

20 1596.8595. (a) (1) Each licensed child day care facility shall
21 post a copy of any licensing report pertaining to the facility that
22 documents either a facility inspection or a complaint investigation
23 that results in a citation for a violation that, if not corrected, will
24 create a direct and immediate risk to the health, safety, or personal
25 rights of the children in care. The licensing report provided by the
26 department shall be posted immediately upon receipt, adjacent to
27 the postings required pursuant to Section 1596.817 and on, or
28 immediately adjacent to, the interior side of the main door to the
29 facility and shall remain posted for 30 consecutive days.

30 (2) A family day care home shall comply with the posting
31 requirements contained in paragraph (1) during the hours when
32 clients are present.

33 (3) Failure to comply with paragraph (1) shall result in an
34 immediate civil penalty of one hundred dollars (\$100).

35 (b) (1) Notwithstanding subdivision (b) of Section 1596.859,
36 the licensee shall post a licensing report or other appropriate
37 document verifying the licensee's compliance or noncompliance
38 with the department's order to correct a deficiency that is subject
39 to posting pursuant to paragraph (1) of subdivision (a). The
40 licensing report or other document shall be posted immediately

1 upon receipt, adjacent to the postings required pursuant to Section
2 1596.817, on, or immediately adjacent to, the interior side of the
3 main door into the facility and shall be posted for a period of 30
4 consecutive days.

5 (2) A family day care home shall comply with the posting
6 requirements contained in paragraph (1) during the hours when
7 clients are present.

8 (3) Failure to comply with paragraph (1) shall result in an
9 immediate civil penalty of one hundred dollars (\$100).

10 (c) (1) A licensed child day care facility shall provide to the
11 parents or guardians of each child receiving services in the facility
12 copies of any licensing report that documents a citation issued
13 pursuant to subdivision (e) or (f) of Section 1596.99 or subdivision
14 (e) or (f) of Section 1597.58 or that represents an immediate risk
15 to the health, safety, or personal rights of children in care as set
16 forth in paragraph (1) of subdivision (a) of Section 1596.893b.

17 (2) Upon enrollment of a new child in a facility, the licensee
18 shall provide to the parents or legal guardians of the newly
19 enrolling child copies of any licensing report that the licensee has
20 received during the prior 12-month period that documents a
21 citation issued pursuant to subdivision (e) or (f) of Section 1596.99
22 or subdivision (e) or (f) of Section 1597.58 or that represents an
23 immediate risk to the health, safety, or personal rights of children
24 in care as set forth in paragraph (1) of subdivision (a) of Section
25 1596.893b.

26 (3) The licensee shall require each recipient of the licensing
27 report described in paragraph (1) pertaining to a complaint
28 investigation to sign a statement indicating that he or she has
29 received the document and the date it was received.

30 (4) The licensee shall keep verification of receipt in each child's
31 file.

32 (d) (1) A licensed child day care facility shall provide to the
33 parents or legal guardians of each child receiving services in the
34 facility copies of any licensing document pertaining to a conference
35 conducted by a local licensing agency management representative
36 with the licensee in which issues of noncompliance are discussed.

37 (2) Upon enrollment of a new child in a facility, the licensee
38 shall provide to the parents or legal guardians of the newly
39 enrolling child copies of any licensing document that the licensee
40 has received during the prior 12-month period that pertains to a

1 conference conducted by a local licensing agency management
2 representative with the licensee in which issues of noncompliance
3 are discussed.

4 (3) The licensee shall require each recipient of the licensing
5 document pertaining to a conference to sign a statement indicating
6 that he or she has received the document and the date it was
7 received.

8 (4) The licensee shall keep verification of receipt in each child's
9 file.

10 (e) This section shall become operative on July 1, 2017.

11 SEC. 5. ~~Section 1596.99 of the Health and Safety Code is~~
12 ~~amended to read:~~

13 ~~1596.99. (a) In addition to the suspension, temporary~~
14 ~~suspension, or revocation of a license issued under this chapter or~~
15 ~~Chapter 3.4 (commencing with Section 1596.70), the department~~
16 ~~shall levy civil penalties as follows:~~

17 (b) (1) The amount of the civil penalty shall be one hundred
18 dollars (\$100) per day for each violation of this chapter if an agency
19 or facility fails to correct a deficiency after being provided a
20 specified length of time to correct the deficiency.

21 (A) If a licensee or a licensee's representative submits evidence
22 to the department that the licensee has corrected a deficiency, and
23 the department, after reviewing that evidence, has determined that
24 the deficiency has been corrected, the civil penalty shall cease as
25 of the day the department received that evidence.

26 (B) If the department deems it necessary, the department shall
27 inspect the facility within five working days after the department
28 receives evidence pursuant to subparagraph (A) to confirm that
29 the deficiency has been corrected.

30 (C) If the department determines that the deficiency has not
31 been corrected, the civil penalties shall continue to accrue from
32 the date of the original citation.

33 (D) If the department is able to verify that the deficiency was
34 corrected prior to the date on which the department received the
35 evidence pursuant to subparagraph (A), the civil penalty shall cease
36 as of that earlier date.

37 (2) (A) If the department issues a notification of deficiency to
38 an agency or facility for a repeat violation of a violation specified
39 in paragraph (1), the department shall assess an immediate civil
40 penalty of two hundred fifty dollars (\$250) per repeat violation

1 and one hundred dollars (\$100) for each day the repeat violation
2 continues after citation.

3 (B) For purposes of this section, “repeat violation” means the
4 violation within 12 months of a prior violation of a statutory or
5 regulatory provision designated by the same combination of letters
6 or numerals, or both letters and numerals.

7 (3) If the nature or seriousness of the violation or the frequency
8 of the violation warrants a higher penalty or an immediate civil
9 penalty assessment, or both, as provided in this chapter. A
10 correction of a deficiency shall not impact the imposition of a civil
11 penalty.

12 (e) The department shall assess an immediate civil penalty of
13 five hundred dollars (\$500) per violation and one hundred dollars
14 (\$100) for each day the violation continues after citation, for any
15 of the following serious violations:

16 (1) Any violation that the department determines resulted in the
17 injury or illness of a child.

18 (2) Fire clearance violations, including, but not limited to,
19 overcapacity, inoperable smoke alarms, and inoperable fire alarm
20 systems.

21 (3) Absence of supervision, including, but not limited to, a child
22 left unattended, supervision of a child by a person under 18 years
23 of age, and lack of supervision resulting in a child wandering away.

24 (4) Accessible bodies of water if prohibited by this chapter or
25 regulations adopted pursuant to this chapter.

26 (5) Accessible firearms, ammunition, or both.

27 (6) Refused entry to a facility or any part of a facility in violation
28 of Section 1596.852, 1596.853, or 1597.09.

29 (7) The presence of a person subject to a department Order of
30 Exclusion on the premises.

31 (d) If the department issues a notice of deficiency to a facility
32 for a repeat violation of a violation specified in subdivision (c);
33 the department shall assess an immediate civil penalty of one
34 thousand dollars (\$1,000) per repeat violation and one hundred
35 dollars (\$100) for each day the repeat violation continues after
36 citation.

37 (e) For a violation that the department determines resulted in
38 the death of a child, the civil penalty shall be assessed as follows:

39 (1) Seven thousand five hundred dollars (\$7,500) for a facility
40 licensed to care for 30 or fewer children.

~~(2) Ten thousand dollars (\$10,000) for a facility licensed to care for 31 to 100, inclusive, children.~~

~~(3) Fifteen thousand dollars (\$15,000) for a facility licensed to care for more than 100 children.~~

~~(f) (1) For a violation that the department determines constitutes physical abuse or resulted in serious injury, as defined in Section 1596.8865, to a child, the civil penalty shall be assessed as follows:~~

~~(A) Two thousand five hundred dollars (\$2,500) for a facility licensed to care for 30 or fewer children.~~

~~(B) Five thousand dollars (\$5,000) for a facility licensed to care for 31 to 100, inclusive, children.~~

~~(C) Ten thousand dollars (\$10,000) for a facility licensed to care for more than 100 children.~~

~~(2) For purposes of this subdivision, "physical abuse" includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code, neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency.~~

~~(g) (1) Before the assessment of a civil penalty pursuant to subdivision (e) or (f), the decision shall be approved by the program administrator of the Community Care Licensing Division.~~

~~(2) (A) The department shall reduce the amount of a civil penalty pursuant to subdivision (e) or (f) by the amount of the civil penalty already assessed for the underlying violation.~~

~~(B) If the amount of the civil penalty that the department has already assessed for the underlying violation exceeds the amount of the penalty pursuant to subdivision (e) or (f), the larger amount shall prevail and be due and payable as already assessed by the department.~~

~~(h) Notwithstanding any law, revenues received by the state from the payment of civil penalties imposed on licensed child care centers pursuant to this chapter or Chapter 3.4 (commencing with Section 1596.70), shall be deposited in the Child Health and Safety Fund, created pursuant to Chapter 4.6 (commencing with Section 18285) of Part 6 of Division 9 of the Welfare and Institutions Code,~~

1 and shall be expended, upon appropriation by the Legislature,
2 pursuant to subdivision (f) of Section 18285 of the Welfare and
3 Institutions Code exclusively for the technical assistance,
4 orientation, training, and education of licensed day care center
5 providers.

6 (i) (1) A notification of a deficiency written by a representative
7 of the department shall include a factual description of the nature
8 of the deficiency fully stating the manner in which the licensee
9 failed to comply with the specified statute or regulation, and, if
10 applicable, the particular place or area in which the deficiency
11 occurred. The department shall make a good faith effort to work
12 with the licensee to determine the cause of the deficiency and ways
13 to prevent any repeat violations.

14 (2) The department shall adopt regulations setting forth the
15 appeal procedures for deficiencies.

16 (j) (1) A licensee shall have the right to submit to the
17 department a written request for a formal review of a civil penalty
18 assessed pursuant to subdivisions (d) and (e) within 15 business
19 days of receipt of the notice of a civil penalty assessment and shall
20 provide all available supporting documentation at that time. The
21 review shall be conducted by the deputy director of the Community
22 Care Licensing Division. The licensee may submit additional
23 supporting documentation that was unavailable at the time of
24 submitting the request for review within the first 30 business days
25 after submitting the request for review. If the department requires
26 additional information from the licensee, that information shall be
27 requested within the first 30 business days after receiving the
28 request for review. The licensee shall provide this additional
29 information within 30 business days of receiving the request from
30 the department. If the deputy director determines that the civil
31 penalty was not assessed, or the finding of the deficiency that
32 resulted in the assessment of the civil penalty was not made, in
33 accordance with applicable statutes or regulations of the
34 department, he or she may amend or dismiss the civil penalty or
35 finding of deficiency. The licensee shall be notified in writing of
36 the deputy director's decision within 60 business days of the date
37 when all necessary information has been provided to the
38 department by the licensee.

39 (2) (A) Upon exhausting the review described in paragraph (1),
40 a licensee may further appeal that decision to an administrative

1 law judge. Proceedings shall be conducted in accordance with
2 Chapter 5 (commencing with Section 11500) of Part 1 of Division
3 3 of Title 2 of the Government Code, and the department shall
4 have all the powers granted by those provisions. In all proceedings
5 conducted in accordance with this section, the standard of proof
6 shall be by a preponderance of the evidence.

7 (B) Notwithstanding any other law, if a licensee prevails in an
8 appeal pursuant to subparagraph (A), the department shall refund
9 to the licensee the amount of any civil penalty that the licensee
10 had paid in connection with the citation within 10 business days
11 of a final determination by the administrative law judge.

12 (3) If, in addition to an assessment of civil penalties, the
13 department elects to file an administrative action to suspend or
14 revoke the facility license that includes violations relating to the
15 assessment of the civil penalties, the department review of the
16 pending appeal shall cease and the assessment of the civil penalties
17 shall be heard as part of the administrative action process.

18 (k) (1) A licensee shall have the right to submit to the
19 department a written request for a formal review of any other civil
20 penalty or deficiency not described in subdivision (j) within 15
21 business days of receipt of the notice of a civil penalty assessment
22 or a finding of a deficiency, and shall provide all available
23 supporting documentation at that time. The review shall be
24 conducted by a regional manager of the Community Care Licensing
25 Division. The licensee may submit additional supporting
26 documentation that was unavailable at the time of submitting the
27 request for review within the first 30 business days after submitting
28 the request for review. If the department requires additional
29 information from the licensee, that information shall be requested
30 within the first 30 business days after receiving the request for
31 review. The licensee shall provide this additional information
32 within 30 business days of receiving the request from the
33 department. If the regional manager determines that the civil
34 penalty was not assessed, or the finding of the deficiency was not
35 made, in accordance with applicable statutes or regulations of the
36 department, he or she may amend or dismiss the civil penalty or
37 finding of deficiency. The licensee shall be notified in writing of
38 the regional manager's decision within 60 business days of the
39 date when all necessary information has been provided to the
40 department by the licensee.

~~(2) (A) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.~~

~~(B) Notwithstanding any other law, if a licensee prevails in an appeal pursuant to subparagraph (A), the department shall refund to the licensee the amount of any civil penalty that the licensee had paid in connection with the citation within 10 business days of a final determination by the program administrator of the Community Care Licensing Division.~~

~~(l) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 8 of Chapter 813 of the Statutes of 2014.~~

~~(m) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.~~

1 *SEC. 13. Section 1596.99 of the Health and Safety Code is*
2 *amended to read:*

3 1596.99. (a) In addition to the suspension, temporary
4 suspension, or revocation of a license issued under this chapter or
5 Chapter 3.4 (commencing with Section 1596.70), the department
6 may levy a civil penalty.

7 (b) The amount of the civil penalty shall not be less than
8 twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day
9 for each violation of this chapter except where the nature or
10 seriousness of the violation or the frequency of the violation
11 warrants a higher penalty or an immediate civil penalty assessment,
12 or both, as determined by the department. Except as otherwise
13 provided in this chapter, a civil penalty assessment shall not exceed
14 one hundred fifty dollars (\$150) per day per violation.

15 (c) Notwithstanding Sections 1596.893a, 1596.893b, and
16 1596.98, the department shall assess an immediate civil penalty
17 of one hundred fifty dollars (\$150) per day per violation for any
18 of the following serious violations:

19 (1) Fire clearance violations, including, but not limited to,
20 overcapacity, inoperable smoke alarms, and inoperable fire alarm
21 systems.

22 (2) Absence of supervision, including, but not limited to, a child
23 left unattended, supervision of a child by a person under 18 years
24 of age, and lack of supervision resulting in a child wandering away.

25 (3) Accessible bodies of water.

26 (4) Accessible firearms, ammunition, or both.

27 (5) Refused entry to a facility or any part of a facility in violation
28 of Section 1596.852, 1596.853, or 1597.09.

29 (6) The presence of an excluded person on the premises.

30 (d) For a violation that the department determines resulted in
31 the death of a child, the civil penalty shall be assessed as follows:

32 (1) Seven thousand five hundred dollars (\$7,500) for a licensee
33 licensed, among all of the licensee's facilities, to care for 30 or
34 less children.

35 (2) Ten thousand dollars (\$10,000) for a licensee licensed,
36 among all of the licensee's facilities, to care for 31 to 100,
37 inclusive, children.

38 (3) Fifteen thousand dollars (\$15,000) for a licensee licensed,
39 among all of the licensee's facilities, to care for more than 100
40 children.

(e) (1) For a violation that the department determines constitutes physical abuse or resulted in serious injury, as defined in Section 1596.8865, to a child, the civil penalty shall be assessed as follows:

(A) Two thousand five hundred dollars (\$2,500) for a licensee licensed, among all of the licensee's facilities, to care for 30 or less children.

(B) Five thousand dollars (\$5,000) for a licensee licensed, among all of the licensee's facilities, to care for 31 to 100, inclusive, children.

(C) Ten thousand dollars (\$10,000) for a licensee licensed, among all of the licensee's facilities, to care for more than 100 children.

(2) For purposes of this subdivision, "physical abuse" includes physical injury inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1 of the Penal Code, neglect as defined in Section 11165.2 of the Penal Code, or unlawful corporal punishment or injury as defined in Section 11165.4 of the Penal Code when the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency.

(f) Before the issuance of a citation imposing a civil penalty pursuant to subdivision (d) or (e), the decision shall be approved by the program administrator of the Community Care Licensing Division.

(g) Notwithstanding Sections 1596.893a, 1596.893b, and 1596.98, any day care center that is cited for repeating the same violation of this chapter or Chapter 3.4 (commencing with Section 1596.70) within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars (\$150) for each day the violation continues until the deficiency is corrected.

(h) Any day care center that is assessed a civil penalty under subdivision (g) and that repeats the same violation of this chapter within 12 months of the violation subject to subdivision (g) shall be assessed an immediate civil penalty of one hundred fifty dollars (\$150) for each day the violation continues until the deficiency is corrected.

(i) Notwithstanding any other law, revenues received by the state from the payment of civil penalties imposed on licensed child

1 care centers pursuant to this chapter or Chapter 3.4 (commencing
2 with Section 1596.70), shall be deposited in the Child Health and
3 Safety Fund, created pursuant to Chapter 4.6 (commencing with
4 Section 18285) of Part 6 of Division 9 of the Welfare and
5 Institutions Code, and shall be expended, upon appropriation by
6 the Legislature, pursuant to subdivision (f) of Section 18285 of
7 the Welfare and Institutions Code exclusively for the technical
8 assistance, orientation, training, and education of licensed day care
9 center providers.

10 (j) (1) The department shall adopt regulations setting forth the
11 appeal procedures for deficiencies.

12 (2) A notification of a deficiency written by a representative of
13 the department shall include a factual description of the nature of
14 the deficiency fully stating the manner in which the licensee failed
15 to comply with the specified statute or regulation, and, if
16 applicable, the particular place or area of the facility in which the
17 deficiency occurred.

18 (k) (1) A licensee shall have the right to submit to the
19 department a written request for a formal review of a civil penalty
20 assessed pursuant to subdivisions (d) and (e) within 15 business
21 days of receipt of the notice of a civil penalty assessment and shall
22 provide all available supporting documentation at that time. The
23 review shall be conducted by the deputy director of the Community
24 Care Licensing Division. The licensee may submit additional
25 supporting documentation that was unavailable at the time of
26 submitting the request for review within the first 30 business days
27 after submitting the request for review. If the department requires
28 additional information from the licensee, that information shall be
29 requested within the first 30 business days after receiving the
30 request for review. The licensee shall provide this additional
31 information within 30 business days of receiving the request from
32 the department. If the deputy director determines that the civil
33 penalty was not assessed, or the finding of the deficiency that
34 resulted in the assessment of the civil penalty was not made, in
35 accordance with applicable statutes or regulations of the
36 department, he or she may amend or dismiss the civil penalty or
37 finding of deficiency. The licensee shall be notified in writing of
38 the deputy director's decision within 60 business days of the date
39 when all necessary information has been provided to the
40 department by the licensee.

(2) Upon exhausting the review described in paragraph (1), a licensee may further appeal that decision to an administrative law judge. Proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In all proceedings conducted in accordance with this section, the standard of proof shall be by a preponderance of the evidence.

(3) If, in addition to an assessment of civil penalties, the department elects to file an administrative action to suspend or revoke the facility license that includes violations relating to the assessment of the civil penalties, the department review of the pending appeal shall cease and the assessment of the civil penalties shall be heard as part of the administrative action process.

(l) (1) A licensee shall have the right to submit to the department a written request for a formal review of any other civil penalty or deficiency not described in subdivision (k) within 15 business days of receipt of the notice of a civil penalty assessment or a finding of a deficiency, and shall provide all available supporting documentation at that time. The review shall be conducted by a regional manager of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the regional manager determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the regional manager's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within

1 15 business days of receipt of notice of the regional manager's
2 decision. The licensee may submit additional supporting
3 documentation that was unavailable at the time of appeal to the
4 program administrator within the first 30 business days after
5 requesting that appeal. If the department requires additional
6 information from the licensee, that information shall be requested
7 within the first 30 business days after receiving the request for the
8 appeal. The licensee shall provide this additional information
9 within 30 business days of receiving the request from the
10 department. If the program administrator determines that the civil
11 penalty was not assessed, or the finding of the deficiency was not
12 made, in accordance with applicable statutes or regulations of the
13 department, he or she may amend or dismiss the civil penalty or
14 finding of deficiency. The licensee shall be notified in writing of
15 the program administrator's decision within 60 business days of
16 the date when all necessary information has been provided to the
17 department by the licensee. The program administrator's decision
18 is considered final and concludes the licensee's administrative
19 appeal rights regarding the appeal conducted pursuant to this
20 paragraph.

21 (m) The department shall, by January 1, 2016, amend its
22 regulations to reflect the changes to this section made by Section
23 8 of Chapter 813 of the Statutes of 2014.

24 (n) Notwithstanding the Administrative Procedure Act (Chapter
25 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
26 Title 2 of the Government Code), the department may implement
27 and administer the changes made by the act that added this
28 subdivision through all-county letters or similar written instructions
29 until regulations are adopted pursuant to the Administrative
30 Procedure Act.

31 ~~(o) This section shall become operative on July 1, 2015.~~

32 *(o) This section shall become inoperative on July 1, 2017, and,*
33 *as of January 1, 2018, is repealed, unless a later enacted statute,*
34 *that becomes operative on or before January 1, 2018, deletes or*
35 *extends the dates on which it becomes inoperative and is repealed.*

36 SEC. 14. Section 1596.99 is added to the Health and Safety
37 Code, to read:

38 1596.99. (a) In addition to the suspension, temporary
39 suspension, or revocation of a license issued under this chapter

1 or Chapter 3.4 (commencing with Section 1596.70), the department
2 shall levy civil penalties as follows:

3 (b) (1) The amount of the civil penalty shall be one hundred
4 dollars (\$100) per day for each violation of this chapter if a facility
5 fails to correct a deficiency after being provided a specified length
6 of time to correct the deficiency.

7 (A) If a licensee or a licensee's representative submits evidence
8 to the department that the licensee has corrected a deficiency, and
9 the department, after reviewing that evidence, has determined that
10 the deficiency has been corrected, the civil penalty shall cease as
11 of the day the department received that evidence.

12 (B) If the department deems it necessary, the department shall
13 inspect the facility within five working days after the department
14 receives evidence pursuant to subparagraph (A) to confirm that
15 the deficiency has been corrected.

16 (C) If the department determines that the deficiency has not
17 been corrected, the civil penalty shall continue to accrue from the
18 date of the original citation.

19 (D) If the department is able to verify that the deficiency was
20 corrected prior to the date on which the department received the
21 evidence pursuant to subparagraph (A), the civil penalty shall
22 cease as of that earlier date.

23 (2) (A) If the department issues a notification of deficiency to
24 a facility for a repeat violation of a violation specified in paragraph
25 (1), the department shall assess an immediate civil penalty of two
26 hundred fifty dollars (\$250) per repeat violation and one hundred
27 dollars (\$100) for each day the repeat violation continues after
28 citation. The notification of deficiency shall state the manner in
29 which the deficiency constitutes a repeat violation and shall be
30 submitted to a supervisor for review and approval.

31 (B) For purposes of this section, "repeat violation" means a
32 violation within 12 months of a prior violation of a statutory or
33 regulatory provision designated by the same combination of letters
34 or numerals, or both letters and numerals.

35 (3) If the nature or seriousness of the violation or the frequency
36 of the violation warrants a higher penalty or an immediate civil
37 penalty assessment, or both, as provided in this chapter, a
38 correction of a deficiency shall not impact the imposition of a civil
39 penalty.

1 (c) *The department shall assess an immediate civil penalty of*
2 *five hundred dollars (\$500) per violation and one hundred dollars*
3 *(\$100) for each day the violation continues after citation, for any*
4 *of the following serious violations:*

5 (1) *Any violation that the department determines resulted in the*
6 *injury or illness of a child.*

7 (2) *Fire clearance violations, including, but not limited to,*
8 *overcapacity, inoperable smoke alarms, and inoperable fire alarm*
9 *systems.*

10 (3) *Absence of supervision, including, but not limited to, a child*
11 *left unattended, and supervision of a child by a person under 18*
12 *years of age.*

13 (4) *Accessible bodies of water, when prohibited by this chapter*
14 *or regulations adopted pursuant to this chapter.*

15 (5) *Accessible firearms, ammunition, or both.*

16 (6) *Refused entry to a facility or any part of a facility in violation*
17 *of Section 1596.852, 1596.853, or 1597.09.*

18 (7) *The presence of a person subject to a department Order of*
19 *Exclusion on the premises.*

20 (d) *If the department issues a notification of deficiency to a*
21 *facility for a repeat violation of a violation specified in subdivision*
22 *(c), the department shall assess an immediate civil penalty of one*
23 *thousand dollars (\$1,000) per repeat violation and one hundred*
24 *dollars (\$100) for each day the repeat violation continues after*
25 *citation. The notification of deficiency shall state the manner in*
26 *which the deficiency constitutes a repeat violation and shall be*
27 *submitted to a supervisor for review and approval.*

28 (e) *For a violation that the department determines resulted in*
29 *the death of a child, the civil penalty shall be assessed as follows:*

30 (1) *Seven thousand five hundred dollars (\$7,500) for a facility*
31 *licensed to care for 30 or fewer children.*

32 (2) *Ten thousand dollars (\$10,000) for a facility licensed to*
33 *care for 31 to 100, inclusive, children.*

34 (3) *Fifteen thousand dollars (\$15,000) for a facility licensed to*
35 *care for more than 100 children.*

36 (f) (1) *For a violation that the department determines constitutes*
37 *physical abuse or resulted in serious injury, as defined in Section*
38 *1596.8865, to a child, the civil penalty shall be assessed as follows:*

39 (A) *Two thousand five hundred dollars (\$2,500) for a facility*
40 *licensed to care for 30 or fewer children.*

1 (B) Five thousand dollars (\$5,000) for a facility licensed to care
2 for 31 to 100, inclusive, children.

3 (C) Ten thousand dollars (\$10,000) for a facility licensed to
4 care for more than 100 children.

5 (2) For purposes of this subdivision, “physical abuse” includes
6 physical injury inflicted upon a child by another person by other
7 than accidental means, sexual abuse as defined in Section 11165.1
8 of the Penal Code, neglect as defined in Section 11165.2 of the
9 Penal Code, or unlawful corporal punishment or injury as defined
10 in Section 11165.4 of the Penal Code when the person responsible
11 for the child’s welfare is a licensee, administrator, or employee
12 of any facility licensed to care for children, or an administrator
13 or employee of a public or private school or other institution or
14 agency.

15 (g) (1) Before the assessment of a civil penalty pursuant to
16 subdivision (e) or (f), the decision shall be approved by the
17 program administrator of the Community Care Licensing Division.

18 (2) (A) The department shall reduce the amount of a civil
19 penalty due pursuant to subdivision (e) or (f) by the amount of the
20 civil penalty already assessed for the underlying violation.

21 (B) If the amount of the civil penalty that the department has
22 already assessed for the underlying violation exceeds the amount
23 of the penalty pursuant to subdivision (e) or (f), the larger amount
24 shall prevail and be due and payable as already assessed by the
25 department.

26 (h) Notwithstanding any other law, revenues received by the
27 state from the payment of civil penalties imposed on licensed child
28 care centers pursuant to this chapter or Chapter 3.4 (commencing
29 with Section 1596.70), shall be deposited in the Child Health and
30 Safety Fund, created pursuant to Chapter 4.6 (commencing with
31 Section 18285) of Part 6 of Division 9 of the Welfare and
32 Institutions Code, and shall be expended, upon appropriation by
33 the Legislature, pursuant to subdivision (f) of Section 18285 of the
34 Welfare and Institutions Code exclusively for the technical
35 assistance, orientation, training, and education of licensed day
36 care center providers.

37 (i) (1) A notification of a deficiency written by a representative
38 of the department shall include a factual description of the nature
39 of the deficiency fully stating the manner in which the licensee
40 failed to comply with the specified statute or regulation, and, if

1 applicable, the particular place or area in which the deficiency
2 occurred. The department shall make a good faith effort to work
3 with the licensee to determine the cause of the deficiency and ways
4 to prevent any repeat violations.

5 (2) The department shall adopt regulations setting forth the
6 appeal procedures for deficiencies.

7 (j) (1) A licensee shall have the right to submit to the
8 department a written request for a formal review of a civil penalty
9 assessed pursuant to subdivisions (d) and (e) within 15 business
10 days of receipt of the notice of a civil penalty assessment and shall
11 provide all available supporting documentation at that time. The
12 review shall be conducted by the deputy director of the Community
13 Care Licensing Division. The licensee may submit additional
14 supporting documentation that was unavailable at the time of
15 submitting the request for review within the first 30 business days
16 after submitting the request for review. If the department requires
17 additional information from the licensee, that information shall
18 be requested within the first 30 business days after receiving the
19 request for review. The licensee shall provide this additional
20 information within 30 business days of receiving the request from
21 the department. If the deputy director determines that the civil
22 penalty was not assessed, or the finding of the deficiency that
23 resulted in the assessment of the civil penalty was not made, in
24 accordance with applicable statutes or regulations of the
25 department, he or she may amend or dismiss the civil penalty or
26 finding of deficiency. The licensee shall be notified in writing of
27 the deputy director's decision within 60 business days of the date
28 when all necessary information has been provided to the
29 department by the licensee.

30 (2) Upon exhausting the review described in paragraph (1), a
31 licensee may further appeal that decision to an administrative law
32 judge. Proceedings shall be conducted in accordance with Chapter
33 5 (commencing with Section 11500) of Part 1 of Division 3 of Title
34 2 of the Government Code, and the department shall have all the
35 powers granted by those provisions. In all proceedings conducted
36 in accordance with this section, the standard of proof shall be by
37 a preponderance of the evidence.

38 (3) If, in addition to an assessment of civil penalties, the
39 department elects to file an administrative action to suspend or
40 revoke the facility license that includes violations relating to the

1 *assessment of the civil penalties, the department review of the*
2 *pending appeal shall cease and the assessment of the civil penalties*
3 *shall be heard as part of the administrative action process.*

4 *(4) Civil penalties shall be due and payable when administrative*
5 *appeals have been exhausted. Unless payment arrangements have*
6 *been made that are acceptable to the department, a civil penalty*
7 *not paid within 30 days shall be subject to late fees, as specified*
8 *by the department in regulation.*

9 *(k) (1) A licensee shall have the right to submit to the*
10 *department a written request for a formal review of any other civil*
11 *penalty or deficiency not described in subdivision (j) within 15*
12 *business days of receipt of the notice of a civil penalty assessment*
13 *or a finding of a deficiency, and shall provide all available*
14 *supporting documentation at that time. The review shall be*
15 *conducted by a regional manager of the Community Care Licensing*
16 *Division. The licensee may submit additional supporting*
17 *documentation that was unavailable at the time of submitting the*
18 *request for review within the first 30 business days after submitting*
19 *the request for review. If the department requires additional*
20 *information from the licensee, that information shall be requested*
21 *within the first 30 business days after receiving the request for*
22 *review. The licensee shall provide this additional information*
23 *within 30 business days of receiving the request from the*
24 *department. If the regional manager determines that the civil*
25 *penalty was not assessed, or the finding of the deficiency was not*
26 *made, in accordance with applicable statutes or regulations of the*
27 *department, he or she may amend or dismiss the civil penalty or*
28 *finding of deficiency. The licensee shall be notified in writing of*
29 *the regional manager's decision within 60 business days of the*
30 *date when all necessary information has been provided to the*
31 *department by the licensee.*

32 *(2) Upon exhausting the review described in paragraph (1), the*
33 *licensee may further appeal that decision to the program*
34 *administrator of the Community Care Licensing Division within*
35 *15 business days of receipt of notice of the regional manager's*
36 *decision. The licensee may submit additional supporting*
37 *documentation that was unavailable at the time of appeal to the*
38 *program administrator within the first 30 business days after*
39 *requesting that appeal. If the department requires additional*
40 *information from the licensee, that information shall be requested*

1 within the first 30 business days after receiving the request for the
2 appeal. The licensee shall provide this additional information
3 within 30 business days of receiving the request from the
4 department. If the program administrator determines that the civil
5 penalty was not assessed, or the finding of the deficiency was not
6 made, in accordance with applicable statutes or regulations of the
7 department, he or she may amend or dismiss the civil penalty or
8 finding of deficiency. The licensee shall be notified in writing of
9 the program administrator's decision within 60 business days of
10 the date when all necessary information has been provided to the
11 department by the licensee. The program administrator's decision
12 is considered final and concludes the licensee's administrative
13 appeal rights regarding the appeal conducted pursuant to this
14 paragraph.

15 (3) Civil penalties shall be due and payable when administrative
16 appeals have been exhausted. Unless payment arrangements have
17 been made that are acceptable to the department, a civil penalty
18 not paid within 30 days shall be subject to late fees, as specified
19 by the department in regulation.

20 (l) The department shall, by January 1, 2016, amend its
21 regulations to reflect the changes to this section made by Section
22 8 of Chapter 813 of the Statutes of 2014.

23 (m) Notwithstanding the Administrative Procedure Act (Chapter
24 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
25 Title 2 of the Government Code), the department may implement
26 and administer the changes made by the act that added this
27 subdivision through all-county letters or similar written
28 instructions until regulations are adopted pursuant to the
29 Administrative Procedure Act.

30 (n) This section shall become operative on July 1, 2017.

31 ~~SEC. 6. Section 1597.58 of the Health and Safety Code is~~
32 ~~amended to read:~~

33 ~~1597.58. (a) In addition to the suspension, temporary~~
34 ~~suspension, or revocation of a license issued under this chapter,~~
35 ~~the department shall levy a civil penalty.~~

36 ~~(b) (1) The amount of the civil penalty shall be one hundred~~
37 ~~dollars (\$100) per day for each violation of this chapter if an agency~~
38 ~~or facility fails to correct a deficiency after being provided a~~
39 ~~specified length of time to correct that deficiency.~~

1 (A) If a licensee or a licensee's representative submits evidence
2 to the department that the licensee has corrected a deficiency, and
3 the department, after reviewing that evidence, has determined that
4 the deficiency has been corrected, the civil penalty shall cease as
5 of the day the department received that evidence.

6 (B) If the department deems it necessary, the department shall
7 inspect the facility within five working days after the department
8 receives evidence pursuant to subparagraph (A) to confirm that
9 the deficiency has been corrected.

10 (C) If the department determines that the deficiency has not
11 been corrected, the civil penalties shall continue to accrue from
12 the date of the original citation.

13 (D) If the department is able to verify that the deficiency was
14 corrected prior to the date on which the department received the
15 evidence pursuant to subparagraph (A), the civil penalty shall cease
16 as of that earlier date.

17 (2) (A) If the department issues a notification of deficiency to
18 a facility for a repeat violation of a violation specified in paragraph
19 (1), the department shall assess an immediate civil penalty of two
20 hundred fifty dollars (\$250) per repeat violation and one hundred
21 dollars (\$100) for each day the repeat violation continues after
22 citation.

23 (B) For purposes of this section, "repeat violation" means the
24 violation within 12 months of a prior violation of a statutory or
25 regulatory provision designated by the same combination of letters
26 or numerals, or both letters and numerals.

27 (3) If the nature or seriousness of the violation or the frequency
28 of the violation warrants a higher penalty or an immediate civil
29 penalty assessment, or both, as provided in this chapter, a
30 correction of the deficiency shall not impact the imposition of a
31 civil penalty.

32 (e) The department shall assess an immediate civil penalty of
33 five hundred dollars (\$500) per violation and one hundred dollars
34 (\$100) for each day the violation continues after citation, for any
35 of the following serious violations:

36 (1) Any violation that the department determines resulted in the
37 injury or illness of a child.

38 (2) Absence of supervision, including, but not limited to, a child
39 left unattended, a child left alone with a person under 18 years of
40 age, and lack of supervision resulting in a child wandering away.

1 ~~(3) Accessible bodies of water if prohibited by this chapter or~~
2 ~~regulations adopted pursuant to this chapter.~~

3 ~~(4) Accessible firearms, ammunition, or both.~~

4 ~~(5) Refused entry to a facility or any part of a facility in violation~~
5 ~~of Sections 1596.852, 1596.853, 1597.55a, and 1597.55b.~~

6 ~~(6) The presence of a person subject to a department Order of~~
7 ~~Exclusion on the premises.~~

8 ~~(d) If the department issues a notification of deficiency to a~~
9 ~~facility for a repeat violation of a violation specified in subdivision~~
10 ~~(e), the department shall assess an immediate civil penalty of one~~
11 ~~thousand dollars (\$1,000) per repeat violation and one hundred~~
12 ~~dollars (\$100) for each day the repeat violation continues after~~
13 ~~citation.~~

14 ~~(e) For a violation that the department determines resulted in~~
15 ~~the death of a child, the civil penalty shall be assessed as follows:~~

16 ~~(1) Five thousand dollars (\$5,000) for a small family day care~~
17 ~~home, as described in Section 1597.44.~~

18 ~~(2) Seven thousand five hundred dollars (\$7,500) for a large~~
19 ~~family day care home, as described in Section 1597.465.~~

20 ~~(f) (1) For a violation that the department determines constitutes~~
21 ~~physical abuse or resulted in serious injury, as defined in Section~~
22 ~~1596.8865, to a child, the civil penalty shall be assessed as follows:~~

23 ~~(A) One thousand dollars (\$1,000) for a small family day care~~
24 ~~home, as described in Section 1597.44.~~

25 ~~(B) Two thousand dollars (\$2,000) for a large family day care~~
26 ~~home, as described in Section 1597.465.~~

27 ~~(2) For purposes of this subdivision, "physical abuse" includes~~
28 ~~physical injury inflicted upon a child by another person by other~~
29 ~~than accidental means, sexual abuse as defined in Section 11165.1~~
30 ~~of the Penal Code, neglect as defined in Section 11165.2 of the~~
31 ~~Penal Code, or unlawful corporal punishment or injury as defined~~
32 ~~in Section 11165.4 of the Penal Code when the person responsible~~
33 ~~for the child's welfare is a licensee, administrator, or employee of~~
34 ~~any facility licensed to care for children, or an administrator or~~
35 ~~employee of a public or private school or other institution or~~
36 ~~agency.~~

37 ~~(g) (1) Before the assessment of a civil penalty pursuant to~~
38 ~~subdivision (e) or (f), the decision shall be approved by the program~~
39 ~~administrator of the Community Care Licensing Division.~~

~~(2) (A) The department shall reduce the amount of a civil penalty due pursuant to subdivision (e) or (f) by the amount of the civil penalty already assessed for the underlying violation.~~

~~(B) If the amount of the civil penalty that the department has already assessed for the underlying violation exceeds the amount of the penalty pursuant to subdivision (e) or (f), the larger amount shall prevail and be due and payable as already assessed by the department.~~

~~(h) Notwithstanding any other law, revenues received by the state from the payment of civil penalties imposed on licensed family day care homes pursuant to this chapter or Chapter 3.4 (commencing with Section 1596.70), shall be deposited in the Child Health and Safety Fund, created pursuant to Chapter 4.6 (commencing with Section 18285) of Part 6 of Division 9 of the Welfare and Institutions Code, and shall be expended, upon appropriation by the Legislature, pursuant to subdivision (f) of Section 18285 of the Welfare and Institutions Code exclusively for the technical assistance, orientation, training, and education of licensed family day care home providers.~~

~~(i) (1) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area in which the deficiency occurred. The department shall make a good faith effort to work with the licensee to determine the cause of the deficiency and ways to prevent any repeat violations.~~

~~(2) The department shall adopt regulations setting forth appeal procedures for deficiencies.~~

~~(j) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be~~

1 requested within the first 30 business days after receiving the
2 request for review. The licensee shall provide this additional
3 information within 30 business days of receiving the request from
4 the department. If the deputy director determines that the civil
5 penalty was not assessed, or the finding of the deficiency that
6 resulted in the assessment of the civil penalty was not made, in
7 accordance with applicable statutes or regulations of the
8 department, he or she may amend or dismiss the civil penalty or
9 finding of deficiency. The licensee shall be notified in writing of
10 the deputy director's decision within 60 business days of the date
11 when all necessary information has been provided to the
12 department by the licensee.

13 (2) (A) Upon exhausting the review described in paragraph (1),
14 a licensee may further appeal that decision to an administrative
15 law judge. Proceedings shall be conducted in accordance with
16 Chapter 5 (commencing with Section 11500) of Part 1 of Division
17 3 of Title 2 of the Government Code, and the department shall
18 have all the powers granted by those provisions. In all proceedings
19 conducted in accordance with this section, the standard of proof
20 shall be by a preponderance of the evidence.

21 (B) Notwithstanding any other law, if a licensee prevails in an
22 review pursuant to subparagraph (A), the department shall refund
23 to the licensee the amount of any civil penalty that the licensee
24 had paid in connection with the citation within 10 business days
25 of a final determination by the administrative law judge.

26 (3) If, in addition to an assessment of civil penalties, the
27 department elects to file an administrative action to suspend or
28 revoke the facility license that includes violations relating to the
29 assessment of the civil penalties, the department review of the
30 pending appeal shall cease and the assessment of the civil penalties
31 shall be heard as part of the administrative action process.

32 (k) (1) A licensee shall have the right to submit to the
33 department a written request for a formal review of any other civil
34 penalty or deficiency not described in subdivision (j) within 15
35 business days of receipt of the notice of a civil penalty assessment
36 or a finding of a deficiency, and shall provide all available
37 supporting documentation at that time. The review shall be
38 conducted by a regional manager of the Community Care Licensing
39 Division. The licensee may submit additional supporting
40 documentation that was unavailable at the time of submitting the

1 request for review within the first 30 business days after submitting
2 the request for review. If the department requires additional
3 information from the licensee, that information shall be requested
4 within the first 30 business days after receiving the request for
5 review. The licensee shall provide this additional information
6 within 30 business days of receiving the request from the
7 department. If the regional manager determines that the civil
8 penalty was not assessed, or the finding of the deficiency was not
9 made, in accordance with applicable statutes or regulations of the
10 department, he or she may amend or dismiss the civil penalty or
11 finding of deficiency. The licensee shall be notified in writing of
12 the regional manager's decision within 60 business days of the
13 date when all necessary information has been provided to the
14 department by the licensee.

15 (2) (A) Upon exhausting the review described in paragraph (1),
16 the licensee may further appeal that decision to the program
17 administrator of the Community Care Licensing Division within
18 15 business days of receipt of notice of the regional manager's
19 decision. The licensee may submit additional supporting
20 documentation that was unavailable at the time of appeal to the
21 program administrator within the first 30 business days after
22 requesting that appeal. If the department requires additional
23 information from the licensee, that information shall be requested
24 within the first 30 business days after receiving the request for the
25 appeal. The licensee shall provide this additional information
26 within 30 business days of receiving the request from the
27 department. If the program administrator determines that the civil
28 penalty was not assessed, or the finding of the deficiency was not
29 made, in accordance with applicable statutes or regulations of the
30 department, he or she may amend or dismiss the civil penalty or
31 finding of deficiency. The licensee shall be notified in writing of
32 the program administrator's decision within 60 business days of
33 the date when all necessary information has been provided to the
34 department by the licensee. The program administrator's decision
35 is considered final and concludes the licensee's administrative
36 appeal rights regarding the appeal conducted pursuant to this
37 paragraph.

38 (B) Notwithstanding any other law, if a licensee prevails in an
39 appeal pursuant to subparagraph (A), the department shall refund
40 to the licensee the amount of any civil penalty that the licensee

1 ~~had paid in connection with the citation within 10 business days~~
2 ~~of a final determination by the administrator of the Community~~
3 ~~Care Licensing Division.~~

4 ~~(f) Notwithstanding the Administrative Procedure Act (Chapter~~
5 ~~3.5 (commencing with Section 11340) of Part 1 of Division 3 of~~
6 ~~Title 2 of the Government Code), the department may implement~~
7 ~~and administer the changes made by the act that added this~~
8 ~~subdivision through all-county letters or similar written instructions~~
9 ~~until regulations are adopted pursuant to the Administrative~~
10 ~~Procedure Act.~~

11 *SEC. 15. Section 1597.58 of the Health and Safety Code is*
12 *amended to read:*

13 1597.58. (a) In addition to the suspension, temporary
14 suspension, or revocation of a license issued under this chapter,
15 the department may levy a civil penalty.

16 (b) The amount of the civil penalty shall not be less than
17 twenty-five dollars (\$25) nor more than fifty dollars (\$50) per day
18 for each violation of this chapter except where the nature or
19 seriousness of the violation or the frequency of the violation
20 warrants a higher penalty or an immediate civil penalty assessment
21 or both, as determined by the department. Except as otherwise
22 provided in this chapter, a civil penalty assessment shall not exceed
23 one hundred fifty dollars (\$150) per day per violation.

24 (c) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,
25 and 1597.62, the department shall assess an immediate civil penalty
26 of one hundred fifty dollars (\$150) per day per violation for any
27 of the following serious violations:

28 (1) Any violation that results in the injury, illness, or death of
29 a child.

30 (2) Absence of supervision, including, but not limited to, a child
31 left unattended, a child left alone with a person under 18 years of
32 age, and lack of supervision resulting in a child wandering away.

33 (3) Accessible bodies of water.

34 (4) Accessible firearms, ammunition, or both.

35 (5) Refused entry to a facility or any part of a facility in violation
36 of Sections 1596.852, 1596.853, 1597.55a, and 1597.55b.

37 (6) The presence of an excluded person on the premises.

38 (d) For a violation that the department determines resulted in
39 the death of a child, the civil penalty shall be assessed as follows:

1 (1) Five thousand dollars (\$5,000) for a small family day care
2 home, as described in Section 1597.44.

3 (2) Seven thousand five hundred dollars (\$7,500) for a large
4 family day care home, as described in Section 1597.465.

5 (e) (1) For a violation that the department determines constitutes
6 physical abuse or resulted in serious injury, as defined in Section
7 1596.8865, to a child, the civil penalty shall be assessed as follows:

8 (A) One thousand dollars (\$1,000) for a small family day care
9 home, as described in Section 1597.44.

10 (B) Two thousand dollars (\$2,000) for a large family day care
11 home, as described in Section 1597.465.

12 (2) For purposes of this subdivision, “physical abuse” includes
13 physical injury inflicted upon a child by another person by other
14 than accidental means, sexual abuse as defined in Section 11165.1
15 of the Penal Code, neglect as defined in Section 11165.2 of the
16 Penal Code, or unlawful corporal punishment or injury as defined
17 in Section 11165.4 of the Penal Code when the person responsible
18 for the child’s welfare is a licensee, administrator, or employee of
19 any facility licensed to care for children, or an administrator or
20 employee of a public or private school or other institution or
21 agency.

22 (f) Before the issuance of a citation imposing a civil penalty
23 pursuant to subdivision (d) or (e), the decision shall be approved
24 by the program administrator of the Community Care Licensing
25 Division.

26 (g) Notwithstanding Sections 1596.893a, 1596.893b, 1597.56,
27 and 1597.62, any family day care home that is cited for repeating
28 the same violation of this chapter or Chapter 3.4 (commencing
29 with Section 1596.70), within 12 months of the first violation, is
30 subject to an immediate civil penalty assessment of up to one
31 hundred fifty dollars (\$150) and may be assessed up to fifty dollars
32 (\$50) for each day the violation continues until the deficiency is
33 corrected.

34 (h) Any family day care home that is assessed a civil penalty
35 under subdivision (g) that repeats the same violation of this chapter
36 within 12 months of the violation subject to subdivision (g) shall
37 be assessed an immediate assessment of up to one hundred fifty
38 dollars (\$150) and may be assessed up to one hundred fifty dollars
39 (\$150) for each day the violation continues until the deficiency is
40 corrected.

(i) Notwithstanding any other law, revenues received by the state from the payment of civil penalties imposed on licensed family day care homes pursuant to this chapter or Chapter 3.4 (commencing with Section 1596.70), shall be deposited in the Child Health and Safety Fund, created pursuant to Chapter 4.6 (commencing with Section 18285) of Part 6 of Division 9 of the Welfare and Institutions Code, and shall be expended, upon appropriation by the Legislature, pursuant to subdivision (f) of Section 18285 of the Welfare and Institutions Code exclusively for the technical assistance, orientation, training, and education of licensed family day care home providers.

(j) (1) The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(2) A notification of a deficiency written by a representative of the department shall include a factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with the specified statute or regulation, and, if applicable, the particular place or area of the facility in which the deficiency occurred.

(k) (1) A licensee shall have the right to submit to the department a written request for a formal review of a civil penalty assessed pursuant to subdivisions (d) and (e) within 15 business days of receipt of the notice of a civil penalty assessment and shall provide all available supporting documentation at that time. The review shall be conducted by the deputy director of the Community Care Licensing Division. The licensee may submit additional supporting documentation that was unavailable at the time of submitting the request for review within the first 30 business days after submitting the request for review. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for review. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the deputy director determines that the civil penalty was not assessed, or the finding of the deficiency that resulted in the assessment of the civil penalty was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the deputy director's decision within 60 business days of the date

1 when all necessary information has been provided to the
2 department by the licensee.

3 (2) Upon exhausting the review described in paragraph (1), a
4 licensee may further appeal that decision to an administrative law
5 judge. Proceedings shall be conducted in accordance with Chapter
6 5 (commencing with Section 11500) of Part 1 of Division 3 of
7 Title 2 of the Government Code, and the department shall have all
8 the powers granted by those provisions. In all proceedings
9 conducted in accordance with this section, the standard of proof
10 shall be by a preponderance of the evidence.

11 (3) If, in addition to an assessment of civil penalties, the
12 department elects to file an administrative action to suspend or
13 revoke the facility license that includes violations relating to the
14 assessment of the civil penalties, the department review of the
15 pending appeal shall cease and the assessment of the civil penalties
16 shall be heard as part of the administrative action process.

17 (l) (1) A licensee shall have the right to submit to the
18 department a written request for a formal review of any other civil
19 penalty or deficiency not described in subdivision (k) within 15
20 business days of receipt of the notice of a civil penalty assessment
21 or a finding of a deficiency, and shall provide all available
22 supporting documentation at that time. The review shall be
23 conducted by a regional manager of the Community Care Licensing
24 Division. The licensee may submit additional supporting
25 documentation that was unavailable at the time of submitting the
26 request for review within the first 30 business days after submitting
27 the request for review. If the department requires additional
28 information from the licensee, that information shall be requested
29 within the first 30 business days after receiving the request for
30 review. The licensee shall provide this additional information
31 within 30 business days of receiving the request from the
32 department. If the regional manager determines that the civil
33 penalty was not assessed, or the finding of the deficiency was not
34 made, in accordance with applicable statutes or regulations of the
35 department, he or she may amend or dismiss the civil penalty or
36 finding of deficiency. The licensee shall be notified in writing of
37 the regional manager's decision within 60 business days of the
38 date when all necessary information has been provided to the
39 department by the licensee.

(2) Upon exhausting the review described in paragraph (1), the licensee may further appeal that decision to the program administrator of the Community Care Licensing Division within 15 business days of receipt of notice of the regional manager's decision. The licensee may submit additional supporting documentation that was unavailable at the time of appeal to the program administrator within the first 30 business days after requesting that appeal. If the department requires additional information from the licensee, that information shall be requested within the first 30 business days after receiving the request for the appeal. The licensee shall provide this additional information within 30 business days of receiving the request from the department. If the program administrator determines that the civil penalty was not assessed, or the finding of the deficiency was not made, in accordance with applicable statutes or regulations of the department, he or she may amend or dismiss the civil penalty or finding of deficiency. The licensee shall be notified in writing of the program administrator's decision within 60 business days of the date when all necessary information has been provided to the department by the licensee. The program administrator's decision is considered final and concludes the licensee's administrative appeal rights regarding the appeal conducted pursuant to this paragraph.

(m) The department shall, by January 1, 2016, amend its regulations to reflect the changes to this section made by Section 10 of Chapter 813 of the Statutes of 2014.

(n) Notwithstanding the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes made by the act that added this subdivision through all-county letters or similar written instructions until regulations are adopted pursuant to the Administrative Procedure Act.

~~(o) This section shall become operative on July 1, 2015.~~

(o) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 16. Section 1597.58 is added to the Health and Safety Code, to read:

1 1597.58. (a) In addition to the suspension, temporary
2 suspension, or revocation of a license issued under this chapter,
3 the department shall levy a civil penalty.

4 (b) (1) The amount of the civil penalty shall be one hundred
5 dollars (\$100) per day for each violation of this chapter if a facility
6 fails to correct a deficiency after being provided a specified length
7 of time to correct that deficiency.

8 (A) If a licensee or a licensee's representative submits evidence
9 to the department that the licensee has corrected a deficiency, and
10 the department, after reviewing that evidence, has determined that
11 the deficiency has been corrected, the civil penalty shall cease as
12 of the day the department received that evidence.

13 (B) If the department deems it necessary, the department shall
14 inspect the facility within five working days after the department
15 receives evidence pursuant to subparagraph (A) to confirm that
16 the deficiency has been corrected.

17 (C) If the department determines that the deficiency has not
18 been corrected, the civil penalty shall continue to accrue from the
19 date of the original citation.

20 (D) If the department is able to verify that the deficiency was
21 corrected prior to the date on which the department received the
22 evidence pursuant to subparagraph (A), the civil penalty shall
23 cease as of that earlier date.

24 (2) (A) If the department issues a notification of deficiency to
25 a facility for a repeat violation of a violation specified in paragraph
26 (1), the department shall assess an immediate civil penalty of two
27 hundred fifty dollars (\$250) per repeat violation and one hundred
28 dollars (\$100) for each day the repeat violation continues after
29 citation. The notification of deficiency shall state the manner in
30 which the deficiency constitutes a repeat violation and shall be
31 submitted to a supervisor for review and approval.

32 (B) For purposes of this section, "repeat violation" means a
33 violation within 12 months of a prior violation of a statutory or
34 regulatory provision designated by the same combination of letters
35 or numerals, or both letters and numerals.

36 (3) If the nature or seriousness of the violation or the frequency
37 of the violation warrants a higher penalty or an immediate civil
38 penalty assessment, or both, as provided in this chapter, a
39 correction of the deficiency shall not impact the imposition of a
40 civil penalty.

1 (c) *The department shall assess an immediate civil penalty of*
2 *five hundred dollars (\$500) per violation and one hundred dollars*
3 *(\$100) for each day the violation continues after citation, for any*
4 *of the following serious violations:*

5 (1) *Any violation that the department determines resulted in the*
6 *injury or illness of a child.*

7 (2) *Absence of supervision, including, but not limited to, a child*
8 *left unattended and a child left alone with a person under 18 years*
9 *of age.*

10 (3) *Accessible bodies of water, when prohibited by this chapter*
11 *or regulations adopted pursuant to this chapter.*

12 (4) *Accessible firearms, ammunition, or both.*

13 (5) *Refused entry to a facility or any part of a facility in violation*
14 *of Sections 1596.852, 1596.853, 1597.55a, and 1597.55b.*

15 (6) *The presence of a person subject to a department Order of*
16 *Exclusion on the premises.*

17 (d) *If the department issues a notification of deficiency to a*
18 *facility for a repeat violation of a violation specified in subdivision*
19 *(c), the department shall assess an immediate civil penalty of one*
20 *thousand dollars (\$1,000) per repeat violation and one hundred*
21 *dollars (\$100) for each day the repeat violation continues after*
22 *citation. The notification of deficiency shall state the manner in*
23 *which the deficiency constitutes a repeat violation and shall be*
24 *submitted to a supervisor for review and approval.*

25 (e) *For a violation that the department determines resulted in*
26 *the death of a child, the civil penalty shall be assessed as follows:*

27 (1) *Five thousand dollars (\$5,000) for a small family day care*
28 *home, as described in Section 1597.44.*

29 (2) *Seven thousand five hundred dollars (\$7,500) for a large*
30 *family day care home, as described in Section 1597.465.*

31 (f) (1) *For a violation that the department determines constitutes*
32 *physical abuse or resulted in serious injury, as defined in Section*
33 *1596.8865, to a child, the civil penalty shall be assessed as follows:*

34 (A) *One thousand dollars (\$1,000) for a small family day care*
35 *home, as described in Section 1597.44.*

36 (B) *Two thousand dollars (\$2,000) for a large family day care*
37 *home, as described in Section 1597.465.*

38 (2) *For purposes of this subdivision, “physical abuse” includes*
39 *physical injury inflicted upon a child by another person by other*
40 *than accidental means, sexual abuse as defined in Section 11165.1*

1 of the Penal Code, neglect as defined in Section 11165.2 of the
2 Penal Code, or unlawful corporal punishment or injury as defined
3 in Section 11165.4 of the Penal Code when the person responsible
4 for the child's welfare is a licensee, administrator, or employee
5 of any facility licensed to care for children, or an administrator
6 or employee of a public or private school or other institution or
7 agency.

8 (g) (1) Before the assessment of a civil penalty pursuant to
9 subdivision (e) or (f), the decision shall be approved by the
10 program administrator of the Community Care Licensing Division.

11 (2) (A) The department shall reduce the amount of a civil
12 penalty due pursuant to subdivision (e) or (f) by the amount of the
13 civil penalty already assessed for the underlying violation.

14 (B) If the amount of the civil penalty that the department has
15 already assessed for the underlying violation exceeds the amount
16 of the penalty pursuant to subdivision (e) or (f), the larger amount
17 shall prevail and be due and payable as already assessed by the
18 department.

19 (h) Notwithstanding any other law, revenues received by the
20 state from the payment of civil penalties imposed on licensed family
21 day care homes pursuant to this chapter or Chapter 3.4
22 (commencing with Section 1596.70), shall be deposited in the Child
23 Health and Safety Fund, created pursuant to Chapter 4.6
24 (commencing with Section 18285) of Part 6 of Division 9 of the
25 Welfare and Institutions Code, and shall be expended, upon
26 appropriation by the Legislature, pursuant to subdivision (f) of
27 Section 18285 of the Welfare and Institutions Code exclusively for
28 the technical assistance, orientation, training, and education of
29 licensed family day care home providers.

30 (i) (1) A notification of a deficiency written by a representative
31 of the department shall include a factual description of the nature
32 of the deficiency fully stating the manner in which the licensee
33 failed to comply with the specified statute or regulation, and, if
34 applicable, the particular place or area in which the deficiency
35 occurred. The department shall make a good faith effort to work
36 with the licensee to determine the cause of the deficiency and ways
37 to prevent any repeat violations.

38 (2) The department shall adopt regulations setting forth appeal
39 procedures for deficiencies.

1 (j) (1) A licensee shall have the right to submit to the
2 department a written request for a formal review of a civil penalty
3 assessed pursuant to subdivisions (d) and (e) within 15 business
4 days of receipt of the notice of a civil penalty assessment and shall
5 provide all available supporting documentation at that time. The
6 review shall be conducted by the deputy director of the Community
7 Care Licensing Division. The licensee may submit additional
8 supporting documentation that was unavailable at the time of
9 submitting the request for review within the first 30 business days
10 after submitting the request for review. If the department requires
11 additional information from the licensee, that information shall
12 be requested within the first 30 business days after receiving the
13 request for review. The licensee shall provide this additional
14 information within 30 business days of receiving the request from
15 the department. If the deputy director determines that the civil
16 penalty was not assessed, or the finding of the deficiency that
17 resulted in the assessment of the civil penalty was not made, in
18 accordance with applicable statutes or regulations of the
19 department, he or she may amend or dismiss the civil penalty or
20 finding of deficiency. The licensee shall be notified in writing of
21 the deputy director's decision within 60 business days of the date
22 when all necessary information has been provided to the
23 department by the licensee.

24 (2) Upon exhausting the review described in paragraph (1), a
25 licensee may further appeal that decision to an administrative law
26 judge. Proceedings shall be conducted in accordance with Chapter
27 5 (commencing with Section 11500) of Part 1 of Division 3 of Title
28 2 of the Government Code, and the department shall have all the
29 powers granted by those provisions. In all proceedings conducted
30 in accordance with this section, the standard of proof shall be by
31 a preponderance of the evidence.

32 (3) If, in addition to an assessment of civil penalties, the
33 department elects to file an administrative action to suspend or
34 revoke the facility license that includes violations relating to the
35 assessment of the civil penalties, the department review of the
36 pending appeal shall cease and the assessment of the civil penalties
37 shall be heard as part of the administrative action process.

38 (4) Civil penalties shall be due and payable when administrative
39 appeals have been exhausted. Unless payment arrangements have
40 been made that are acceptable to the department, a civil penalty

1 not paid within 30 days shall be subject to late fees, as specified
2 by the department in regulation.

3 (k) (1) A licensee shall have the right to submit to the
4 department a written request for a formal review of any other civil
5 penalty or deficiency not described in subdivision (j) within 15
6 business days of receipt of the notice of a civil penalty assessment
7 or a finding of a deficiency, and shall provide all available
8 supporting documentation at that time. The review shall be
9 conducted by a regional manager of the Community Care Licensing
10 Division. The licensee may submit additional supporting
11 documentation that was unavailable at the time of submitting the
12 request for review within the first 30 business days after submitting
13 the request for review. If the department requires additional
14 information from the licensee, that information shall be requested
15 within the first 30 business days after receiving the request for
16 review. The licensee shall provide this additional information
17 within 30 business days of receiving the request from the
18 department. If the regional manager determines that the civil
19 penalty was not assessed, or the finding of the deficiency was not
20 made, in accordance with applicable statutes or regulations of the
21 department, he or she may amend or dismiss the civil penalty or
22 finding of deficiency. The licensee shall be notified in writing of
23 the regional manager's decision within 60 business days of the
24 date when all necessary information has been provided to the
25 department by the licensee.

26 (2) Upon exhausting the review described in paragraph (1), the
27 licensee may further appeal that decision to the program
28 administrator of the Community Care Licensing Division within
29 15 business days of receipt of notice of the regional manager's
30 decision. The licensee may submit additional supporting
31 documentation that was unavailable at the time of appeal to the
32 program administrator within the first 30 business days after
33 requesting that appeal. If the department requires additional
34 information from the licensee, that information shall be requested
35 within the first 30 business days after receiving the request for the
36 appeal. The licensee shall provide this additional information
37 within 30 business days of receiving the request from the
38 department. If the program administrator determines that the civil
39 penalty was not assessed, or the finding of the deficiency was not
40 made, in accordance with applicable statutes or regulations of the

1 department, he or she may amend or dismiss the civil penalty or
2 finding of deficiency. The licensee shall be notified in writing of
3 the program administrator's decision within 60 business days of
4 the date when all necessary information has been provided to the
5 department by the licensee. The program administrator's decision
6 is considered final and concludes the licensee's administrative
7 appeal rights regarding the appeal conducted pursuant to this
8 paragraph.

9 (3) Civil penalties shall be due and payable when administrative
10 appeals have been exhausted. Unless payment arrangements have
11 been made that are acceptable to the department, a civil penalty
12 not paid within 30 days shall be subject to late fees, as specified
13 by the department in regulation.

14 (l) Notwithstanding the Administrative Procedure Act (Chapter
15 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
16 Title 2 of the Government Code), the department may implement
17 and administer the changes made by the act that added this
18 subdivision through all-county letters or similar written
19 instructions until regulations are adopted pursuant to the
20 Administrative Procedure Act.

21 (m) This section shall become operative on July 1, 2017.